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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

U.S. DISTRICT COURT
DISTRICT OF TEXAS
DEPUTY CLERK

UNITED STATES OF AMERICA) Docket No. A 99-CR-274 SS
v.) Austin, Texas
GARY PAUL KARR) May 24, 2000

VOLUME 8 of 12
TRIAL ON THE MERITS
BEFORE THE HONORABLE SAM SPARKS

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LILY I. REZNIK
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS (AUSTIN)

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1 THE COURT: All right, counsel. Anything before we
2 bring in the jury?

3 MR. CARRUTH: No, your Honor, nothing from the
4 government.

5 MR. T. MILLS: No, sir.

6 THE COURT: All right. Bring in the jury.

7 (Jury present.)

8 THE COURT: Ladies and gentlemen, in the ever ongoing
9 effort of the General Services Administration, your government
10 at work to make us uncomfortable, we were without air
11 conditioning for the evening. I have not gotten the report.
12 Sometimes the report is they cut off the air conditioning to
13 conserve, of course, which is absurd, because by the time it
14 cools up, it costs more.

15 I think what happened is we've got a little
16 construction on and somebody cut a power line that nobody
17 wants to admit it. In any event, we're going to be a little
18 stuffy today. There's not a thing I can do about it except
19 I'm tempted to make them come over with fans individually and
20 fan us, but that would give up rest and it wouldn't do anybody
21 any good. So feel free to use the fans. They're trying to
22 get it as comfortable as they can.

23 During the evening recess, did anyone attempt to talk
24 to you about this case?

25 THE JURORS: No.

Cross - Cross

1 THE COURT: Did you talk to anybody about this case?

2 THE JURORS: No.

3 THE COURT: And did you learn anything at all about
4 the case outside the presence of each other and this
5 courtroom?

6 THE JURORS: No.

7 THE COURT: Thank you. Let the record reflect
8 negative responses to all questions by all jurors. If you'll
9 come up, please, sir. Take the witness stand. Mr. Cross, you
10 are still under oath, sir.

11 THE WITNESS: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. T. MILLS:

14 Q. Mr. Cross, my name's Tom Mills, and I'm one of the lawyers
15 who represent Gary Karr. I had a couple of questions for you.
16 Would you please tell the members of the jury the felony
17 offenses that you've been convicted of?

18 A. I was convicted of unarmed robbery, three larcenies from a
19 person, and I was caught with marihuana, also, marihuana case.

20 Q. All right. Anything else?

21 A. I believe when I was 14, I got caught with some mescaline
22 in high school.

23 Q. That's a hallucinogenic drug?

24 A. Yes, it is.

25 Q. You can pull that toward you. The unarmed robbery was

Cross - Cross

1 your most recent conviction?

2 A. Yes.

3 Q. That was in Michigan?

4 A. Yes.

5 Q. You're from Michigan?

6 A. Yes.

7 Q. Your family lives in Michigan?

8 A. Yes.

9 Q. Do you have a sister?

10 A. No.

11 Q. Brothers?

12 A. One brother.

13 Q. The larceny from a person, that means theft from a person?

14 A. Yes.

15 Q. And you have how many convictions for that?

16 A. Three.

17 Q. With a weapon or without a weapon?

18 A. Without.

19 Q. On your most recent conviction, what sentence did you get
20 in a federal court in Michigan?

21 A. 84 months.

22 Q. Well, actually, you got -- did you first get a higher
23 sentence?

24 A. No, sir.

25 Q. You got 84 months?

Cross - Cross

1 A. Yes, sir.

2 Q. Now, in that case, you were represented by a lawyer named
3 Neil Fink?

4 A. Yes.

5 Q. And he's from Birmingham, Michigan?

6 A. Yes.

7 Q. And at the beginning of the case, after you were arrested
8 for unarmed robbery, were you released on bond or did you stay
9 in jail?

10 A. No. Stayed in jail.

11 Q. And Mr. Fink was your attorney?

12 A. Yes.

13 Q. And he moved the court for a neurological and psychiatric
14 exam of you, didn't he?

15 A. Yes.

16 Q. And that's because you have a history of many, many head
17 injuries, don't you?

18 A. Yes.

19 Q. Beginning when you were a child, you had a head injury,
20 didn't you?

21 A. Yes, sir.

22 Q. You had many episodes of seizures when you were a child,
23 didn't you?

24 A. No.

25 Q. Have you -- did you read the report by Dr. Michael

Cross - Cross

1 Abramski that was done for Mr. Fink?

2 A. No, I did not.

3 Q. As a child, you fell out of a window and hurt your head,
4 didn't you?

5 A. Yes, I did.

6 Q. When you were 13, you had a motorcycle accident and hit
7 your head, didn't you?

8 A. Yes, sir.

9 Q. When you were older, you were in a fight and kicked in the
10 head, weren't you?

11 A. No, sir.

12 Q. When you were 15?

13 A. I don't recall having a head injury being kicked in the
14 head in a fight.

15 Q. Well, how about being hit in the head in a fight?

16 A. I don't recall anything like that either.

17 Q. You do have brain damage, though, in your left hemisphere,
18 don't you?

19 A. Not that I recall or not that I've been diagnosed by
20 anybody that I know of. I never was able to read the
21 neurological exam that they did on me. I don't know what they
22 found.

23 Q. Oh, all right. Well, sometimes you do have memory
24 problems, don't you?

25 A. I don't remember at all sometimes, just reading books and

Cross - Cross

1 stuff like that.

2 Q. Yeah. And you have been treated for alcohol and drug
3 abuse, correct?

4 A. Not alcohol. I had a drug problem before, yes.

5 Q. All right. And you have -- did you -- were you sent
6 copies or did you have an opportunity to read pleadings that
7 your lawyer filed for you in federal court for the Eastern
8 District of Michigan?

9 A. Pleadings?

10 Q. Pleadings, like motions, like documents that a lawyer
11 files with the judge.

12 A. Not that I recall. I don't believe so.

13 Q. Well, do you remember being at a -- did you discuss with
14 your lawyer what actions he was going to take for you?

15 A. As far as defending me?

16 Q. Right, or trying to get you as light a sentence as
17 possible?

18 A. We were going for a diminished capacity.

19 Q. Uh-huh, because of your brain problems, right?

20 A. Just because I had impulsive behavior, and I had a
21 gambling problem.

22 Q. And were you -- and you were successful in presenting or
23 -- I guess you or he were successful in presenting evidence
24 that you, in fact, suffer from diminished mental capacity.
25 That worked, didn't it?

Cross - Cross

1 A. No, it did not.

2 Q. It did not work?

3 A. No, sir.

4 Q. Well, you were facing up to 138 months, weren't you?

5 A. I don't recall what the guidelines were.

6 Q. Well, they were well over 100 months, weren't they?

7 A. I believe so.

8 Q. Do you not remember?

9 A. I don't recall what the guidelines were. I just remember
10 what my lawyer said that I would more than likely get.

11 Q. All right.

12 A. Which was somewhere around 76 to 97 months.

13 Q. All right. In addition to whatever documents the
14 prosecutor -- your defense lawyer filed, the prosecutor in
15 Michigan filed a motion for you to get a low sentence because
16 of your telling the government in this case what you did,
17 right? You're aware of that, aren't you?

18 A. I'm aware of the 5K1.

19 Q. Yes.

20 A. Yes.

21 Q. All right. 5K1 is a section in a book called the Federal
22 Sentencing Guideline, isn't it?

23 A. Yes, sir.

24 Q. All right. And when -- as a result of telling agents in
25 this case things that you say that Gary Karr said, you got

Cross - Cross

1 your sentence lowered, didn't you?

2 A. I don't know if I got my sentence lowered or not. I
3 thought that was just an offer from the prosecution. You
4 know, this is all new to me. I don't really know how things
5 work. You know, I just thought that was -- I didn't know that
6 that was part of a 5K1.

7 Q. All right. Well, is it your belief that when you get back
8 to prison that as a result of testifying here that you hope to
9 get your sentence lowered some more?

10 A. No.

11 Q. No? Why?

12 A. I haven't been promised anything or --

13 Q. I didn't ask that, did I?

14 A. Yeah, it would be nice.

15 Q. Okay. I didn't use the word "promise," did I?

16 A. No.

17 Q. And the prosecutor has not promised you that you would get
18 a lower sentence, has he?

19 A. No, he has not.

20 Q. But that is a hope you have, isn't it?

21 A. I would hope so.

22 Q. All right. Now, do you remember what months -- what month
23 that you were interviewed by the FBI and IRS? What month and
24 year?

25 A. I believe it was in August of '99.

Cross - Cross

1 Q. And you were -- you had access to or you were in the same
2 physical area with Mr. Karr during what months?

3 A. From April to around December of '99.

4 Q. From April to December?

5 A. Yes.

6 Q. And you believe that you were interviewed in August of
7 '99?

8 A. I don't exactly recall the exact month, but I believe it
9 was August.

10 Q. All right. Well, between April and December, that's
11 April, May, June, July, August, September, October, November,
12 December, in nine months, over how many of those months do you
13 claim that Mr. Karr was making confessions to you about
14 everything you've testified to?

15 A. Probably a four-month period or so.

16 Q. Okay. Now, isn't it true that over a four-month period,
17 when you say that he was making confessions to you, that on
18 one day, you wrote down everything that you say he had said as
19 opposed to notes on a day-by-day basis? Isn't that true?

20 A. No, it's not.

21 Q. All right. Well, I've got a copy of your notes and all of
22 them say August the 12th, 1999. Did you make them on August
23 the 12th, 1999?

24 A. I don't believe so. I think that was the date that,
25 maybe, the agents came to see me.

Cross - Cross

1 Q. August the 12th, '99?

2 A. I think so.

3 Q. All right.

4 A. I think so and I think I just dated those on that
5 particular day.

6 Q. All right. Between April and, say, August of 1999, you
7 had communication with family members naturally, didn't you?

8 A. Oh, yes.

9 Q. And you could talk with your lawyer if he was in the
10 office. You could call him collect, couldn't you?

11 A. Yes.

12 Q. He could visit you?

13 A. Yes.

14 Q. Was he on your visiting list or did he have to be --

15 A. No, he never came and visited me.

16 Q. All right. And your lawyer's investigator's name was
17 what?

18 A. I don't know. Investigator?

19 Q. Private investigator?

20 A. I don't know of any private investigator.

21 Q. Okay.

22 A. Not that I can recall. I don't remember anybody like
23 that.

24 Q. Did you -- without it being your lawyer's private
25 investigator, did you or your family hire a private

Cross - Cross

1 investigator to help you out about collecting information?

2 A. No, sir.

3 Q. All right. You had access to and had read documents about
4 the O'Hair case, hadn't you?

5 A. No, sir, I had not.

6 Q. You never have in your life?

7 A. I have now, but I hadn't prior to that.

8 Q. Prior to what?

9 A. Prior to talking with Mr. Karr.

10 Q. Okay. During the period of April through December 1999,
11 you had an opportunity to read documents about the O'Hair
12 investigation, didn't you?

13 A. From April till December?

14 Q. That period.

15 A. I don't believe so. We watched a television show on it,
16 but I never looked at any documents or anything.

17 Q. Never?

18 A. Not that I can recall, no.

19 Q. All right. Why would you not be able to recall that if
20 you did?

21 A. I just don't recall ever looking at any documents.

22 Q. But you're saying that you can't --

23 A. Where would I get documents from?

24 Q. Well, Mr. Karr had some documents that pertained to his
25 case.

Cross - Cross

1 A. Only thing I ever looked at of Mr. Karr's was his -- when
2 he got caught with some guns in his house. Everything that
3 had happened, you know, with the gun case.

4 Q. Uh-huh. There was a --

5 A. He read some of it to me.

6 Q. There was a write-up that was done by the investigating
7 agency, wasn't there? That's what --

8 A. I don't know who it was wrote up by.

9 Q. It was a --

10 A. Like a PSI report type deal.

11 Q. All right. You know Brian Chase?

12 A. Yes, I do.

13 Q. You know Aaron Morris?

14 A. Yes, I do.

15 Q. You know Marvin Gambrion, inmate, prisoner?

16 A. Yes, I do.

17 Q. Okay. Now, you told the FBI or the IRS, or both, when
18 they came that Aaron Morris was present during the time that
19 Mr. Karr was making confessions to you about crimes, didn't
20 you?

21 A. Yes, I did.

22 Q. Okay. And so Aaron Morris would, of course, since he was
23 there, too, would have heard what you heard, right?

24 A. I would think so.

25 Q. All right. Now, have you thought about this concept that

Cross - Cross

1 some of the things that you have told the agents that he said
2 are inconsistent with each other? Have you thought that
3 before? Has that thought entered your mind?

4 A. I don't understand the question.

5 Q. All right. Let me ask you this: Do you know what the
6 word "inconsistent" means? I can use a different word if you
7 want.

8 A. Yes, if you could use a different word.

9 Q. Okay. Do you know what the word "inconsistent" means?

10 A. No, I don't.

11 Q. Okay. Do you know what the word "different" means?

12 A. Yes.

13 Q. Like, if I say I have five fingers up, but I had four
14 fingers up, that would be two different facts. Either I had
15 four or I had five?

16 A. All right.

17 Q. All right. Now, you have said that Mr. Karr told you --
18 and I guess Aaron Morris -- was Brian Chase there, too?

19 A. No.

20 Q. Okay. That he was concerned that somebody saw him with
21 his long, blond hair; is that correct?

22 A. I don't recall ever -- I don't ever remember Aaron being
23 there when he told me that.

24 Q. Okay. I'll correct that. You have testified that Mr.
25 Karr told you in 1999, while y'all were in jail, that he --

Cross - Cross

1 I'm going to ask you a question, but you tell me exactly what
2 you remember. That he was concerned because somebody might
3 have seen him with his long, blond hair?

4 A. Yes.

5 Q. All right. Now, let me show you what's marked as
6 Government's Exhibit W11-5, parenthesis 4. In 1995 -- do you
7 recognize anybody in that photograph?

8 A. No.

9 Q. All right. Do you recognize this man right here?

10 A. I can't see his face, so no.

11 Q. All right. I want you to look at this man right here, and
12 then, I want you to look at Mr. Karr -- turn your head
13 sideways, and I want you to see if you recognize that as being
14 Gary Karr.

15 A. I don't recognize that because I can't see the guy's face
16 in the picture.

17 Q. All right. Let me try to ask it this way. If Mr. Karr --
18 you claim that Mr. Karr said he had long, blond hair in 1995
19 and that he was concerned about being recognized, right?

20 A. I didn't say long, blond hair. I said blondish, brownish
21 hair.

22 Q. All right.

23 A. Little longer.

24 Q. Well, now, yesterday, you didn't say --

25 A. Well, longer blondish, brownish hair.

Cross - Cross

1 Q. Longer blondish, brownish hair?

2 A. Yes.

3 Q. All right. Now, would it be confusing to you if you
4 learned that that would make no sense for him to say that
5 because witnesses have identified him in that photograph as
6 having gray hair that's not long?

7 A. I don't know. That's just what he told me.

8 Q. All right. That's not something that you made up to try
9 to help the government to try to help you get a lower
10 sentence?

11 A. No, sir.

12 Q. Did I understand your testimony to be that Mr. Karr said
13 that the three O'Hairs -- or the O'Hairs and Murray were never
14 out together as a group?

15 A. No.

16 Q. He did not say that?

17 A. No. He did say that.

18 Q. He did say that?

19 A. Yes.

20 Q. Okay. Now, that would be unusual. Do you know what
21 unusual means?

22 A. Yes.

23 Q. If Mr. Karr said that since there is testimony that the
24 three were out together, right, that would be confusing,
25 wouldn't it?

Cross - Cross

1 A. I don't know. That's just what the man told me.

2 Q. Okay. How did he tell you these things? Did he sit down
3 at a table or in a TV room and say, "I would like to confess
4 today. I've never told my ex-wife, law enforcement, best
5 friends, but you, a stranger, I'd like to confess to"?

6 A. We used to talk a lot. We used to talk a lot especially
7 after I had cigarettes.

8 Q. Okay. You think the cigarettes did it?

9 A. I don't know what did it. Might have helped.

10 Q. Okay. Let me ask you this. You testified yesterday that
11 Mr. Karr said two different stories about the bodies or about
12 the barrels. One, you testified that he said he went out to
13 this country place with David Waters and didn't do anything
14 with any barrels. All he did was leave David Waters out in
15 the country by himself?

16 A. No, I never said anything like that.

17 Q. You didn't?

18 A. No, I didn't.

19 Q. Okay. Well, have you told the agents that Gary Karr said
20 that he went out to the country with David Waters, they had an
21 argument, and he abandoned Waters in the country?

22 A. No, I did not.

23 Q. Did you testify yesterday that Mr. Karr said that he went
24 out in the country and dug up some barrels that were buried?

25 A. No, I never said that either.

Cross - Cross

1 Q. All right. What other individuals, if any, have you
2 testified or given evidence about that might lower your
3 sentence? You could give them by name.

4 A. Thomas Sutton.

5 Q. Thomas Sutton?

6 A. S-U-T-T-O-N.

7 Q. Was he a jail mate?

8 A. He was -- yeah, he was incarcerated at Milam.

9 Q. And that was with the hope of getting out sooner in some
10 way, correct?

11 A. Yes.

12 Q. Did you testify that Mr. Karr claims that he cut up three
13 bodies, dismembered them?

14 A. Yes.

15 Q. Okay. And did he say that all of that blood would have
16 left some kind of a stain on the cement floor?

17 A. No, he never said anything like that.

18 Q. Do you claim that Mr. Karr said that he got \$30,000 out of
19 this deal?

20 A. Yes.

21 Q. I assume or did he say -- do you claim that he said
22 \$30,000 in cash?

23 A. I don't recall him ever saying how he was paid in cash.

24 Q. Check?

25 A. I would assume. I assumed cash and I don't know for sure.

Cross - Cross

1 Q. All right. Do you know of anyone there, whatever he said,
2 or any other source of information who saw him with that much
3 cash or any significant amount of cash? Are you aware of any
4 such evidence?

5 A. No, I don't believe so, no.

6 Q. Are you aware of any evidence that periodically that Jon
7 Murray, Madalyn O'Hair were seen walking around the apartment
8 complex where they stayed for a month?

9 A. Am I aware of any evidence?

10 Q. Any facts about that?

11 A. Just what Gary told me.

12 Q. Did Gary tell you that?

13 A. He told me that they were escorted whenever they walked
14 around.

15 Q. Well, I thought you said yesterday that they were kept
16 handcuffed all the time.

17 A. Well, they were kept handcuffed.

18 Q. Well --

19 A. I'm talking about when they were brought outside to be
20 seen, so they could be seen, so it didn't look obvious.

21 Q. So Mr. Karr said that these reasonably high-profile
22 people, Madalyn Murray O'Hair and her son and granddaughter,
23 that it was part of the plan for the public to be able to see
24 them in public so that it wouldn't look fishy, right?

25 A. Yes.

Cross - Cross

1 Q. That's what Mr. Karr said to you?

2 A. Yes.

3 Q. And Mr. Karr said to you that they were killed in the
4 apartment complex?

5 A. No.

6 Q. Did Mr. Karr -- do you claim that Mr. Karr said where they
7 were killed?

8 A. No.

9 Q. You have testified that Mr. Karr said that either he or
10 David Waters had a key to this country property, right?

11 A. He said David, yeah.

12 Q. All right. And you told the agents that?

13 A. Yes, I did.

14 Q. And did they say to you, "But wait a minute, they were
15 combination locks? What's your story about?"

16 A. They never said anything like that to me.

17 Q. Really? You learned from some source, a newspaper
18 article, or some television source, or from some source that
19 some blood had been found in a van in 1999, didn't you?

20 A. No.

21 Q. You told these agents, over here, that Gary Karr said that
22 there was blood in a van?

23 A. Yes.

24 Q. And that it was Danny Fry -- it was the result of Danny
25 Fry being killed, right?

Cross - Cross

1 A. No, he didn't know -- Gary didn't know whose it was. It
2 might have been is what he said.

3 Q. Let me try to get a picture of this. Y'all are in a room
4 together and --

5 A. Yes.

6 Q. -- Gary Karr is telling you about a heinous, horrible
7 crimes that he's done?

8 A. Yes.

9 Q. And anybody else who's around?

10 A. No.

11 Q. Just you. But it's not really just you because it was
12 sometimes Aaron Morris, right?

13 A. Yeah, Aaron lived with him.

14 Q. Yeah, all right. And so one day, he says to you, "You
15 know, back in '95, there was this van and it had some blood,
16 and I don't know if it was Danny Fry's blood or whose blood it
17 was"?

18 A. I don't exactly recall how the conversation started up,
19 but I just remember him saying that they had found blood in
20 the van on the right passenger side, but they didn't know
21 whose body it came from, if it can come from the O'Hairs or
22 the Frys.

23 He said that they would have known where it came from
24 that they would have contacted him by now and charged him with
25 something.

Cross - Cross

1 Q. Well, did he tell you -- strike that. He couldn't have
2 told you that, sir, because he hadn't rented the van until
3 well after the disappearance or leaving of the O'Hairs. Did
4 you know that?

5 A. I don't know that. I just know what he told me.

6 Q. Okay. And when you told that to these agents, I'm
7 assuming that they said to you, "Well, the blood testing shows
8 that it wasn't Danny Fry's blood." Did they say that to you?

9 A. No, they did not.

10 Q. When you -- you say that Mr. Karr said that he had a
11 ticket to freedom?

12 A. Yes.

13 Q. Okay. That's not some phrase that you made up or that
14 somebody helped you make up, is it?

15 A. No.

16 Q. Okay. Now, does it appear to you that Mr. Karr has cashed
17 in that ticket to freedom if he would have said that, that
18 here he is on trial?

19 A. I don't know what he's doing.

20 Q. That doesn't make any sense to you, does it, sir?

21 A. It doesn't make any sense to me he hasn't cashed in on his
22 ticket to freedom?

23 Q. If he really said that.

24 A. That's up to him.

25 Q. Now, it's my understanding that you say that Gary Karr

Cross - Cross

1 said that he got \$30,000 and you assumed in the context of
2 what he said that it was cash, right?

3 A. Yes.

4 Q. And that was his \$30,000 that he was supposed to get out
5 of the deal?

6 A. Yes.

7 Q. And that was what he was supposed to get out of the deal,
8 according to you, \$30,000, right?

9 A. Yes.

10 Q. All right. And yet, yesterday, you said -- and you have
11 told these agents that Gary Karr read the newspaper for the
12 spot gold prices because he had coins that he was interested
13 in. Did you testify to that yesterday?

14 A. I didn't say that he had coins he was interested in, but I
15 said he checked the stock market on gold.

16 Q. On gold because he owned gold?

17 A. I don't know if he owned gold or not.

18 Q. Well, was that the impression that you were trying to give
19 when you told the agents that he checked the gold market?

20 A. No, I wasn't trying to give any impression.

21 Q. Just as a hobby, he checked the gold market?

22 A. He looked at the stock market quite a bit.

23 Q. Stock market or for gold?

24 A. Stock market, gold, yeah.

25 Q. Did he ever tell you that he owned stock?

Cross - Cross

1 A. No. He said he was checking in some Home Depot stock
2 and --

3 Q. Did he tell you that he's indigent? Do you know what that
4 word means?

5 A. No.

6 Q. That he's broke. Did he tell you that?

7 A. No.

8 Q. You have the impression that he was checking the stock
9 market because he was interested in buying Home Depot stock?

10 A. Yeah.

11 Q. Do you say under oath that Mr. Karr told you that he was
12 interested in buying stock including Home Depot?

13 A. I don't recall him saying that he was going to buy stock
14 in it. I just -- I thought that he was interested in buying
15 stock. He talked about it all the time.

16 Q. He talked about it all the time?

17 A. Yeah, he talked about lots of stocks.

18 Q. Well, then, you must have thought that he had money?

19 A. Thought he had money.

20 Q. You thought he had money?

21 A. (Moving head up and down.)

22 Q. You thought that he had the ability --

23 A. I didn't know he was broke.

24 Q. Sorry?

25 A. I didn't know he was indigent, like you said.

Cross - Cross

1 Q. You thought he had the ability to invest in the stock
2 market or the gold market?

3 A. I thought he had the ability, yeah.

4 Q. Yes?

5 A. Yes.

6 Q. Well, then, why, if that was what you really believed,
7 would he have to bum cigarettes from a rich guy like you?

8 A. He didn't bum them, he paid for them.

9 Q. Oh.

10 A. I mean, we both paid for cigarettes. You know, I was
11 getting cigarettes in, but we both, you know, were paying for
12 them.

13 Q. How did you smuggle them in?

14 A. Well, other guys were smuggling them in, and then, we
15 started -- we devised our own little system of getting them in
16 through the newspaper.

17 Q. Through the newspaper?

18 A. Yes.

19 Q. Okay. So you were getting them in, but he was buying them
20 from you?

21 A. No. Once we started getting them in, they were free. We
22 didn't have to pay \$10 and \$20 a cigarette anymore.

23 Q. You knew that he had a friend who, once a month or once
24 every two weeks, would put some money on his books for his
25 toothpaste and living necessities, didn't you?

Cross - Cross

1 A. I don't really know who put his money on there for him.

2 Q. After you were interviewed by the agents, that was when
3 you began taking some notes; is that right?

4 A. No.

5 Q. Did they suggest to you that you do take notes?

6 A. No, they did not.

7 Q. Did they ask you if you had taken notes?

8 A. Yes, they did.

9 Q. Did you give them the notes?

10 A. Yes, I did.

11 Q. Okay. Did you -- how many times did you meet with them?

12 A. Twice.

13 Q. During what months? One in August and one when -- or both
14 in August?

15 A. I don't really recall when the next time was.

16 Q. How many months later? How many days later?

17 A. Maybe a couple of months later. I'm not really positive
18 on that. I don't really recall.

19 Q. Okay. All right. I want you to think back about -- this
20 is May of the year 2000.

21 A. Okay.

22 Q. I want you to think back to August through December of
23 1999. That's last year, right? Now, I'm not quarreling with
24 you, but you don't remember after they visited you in August,
25 you don't remember if you next visited with them in September,

Cross - Cross

1 or October, or November, or December, right?

2 A. I really don't recall. I really don't recall when I was
3 -- it might have been a month later. I'm not really positive.

4 Q. Might have been three months later?

5 A. I don't think it was that long.

6 Q. All right. And yet, you say that you remember specific
7 words from five years ago that he said --

8 MR. CARRUTH: Your Honor, I'm going to object to that
9 as not supported by anything in the record.

10 MR. T. MILLS: I apologize.

11 THE COURT: Okay.

12 Q. (BY MR. T. MILLS) You say that in the spring and summer of
13 1999, you can remember specific words from specific
14 conversations from Mr. Karr?

15 A. Yeah, I remember some specific things that were said.

16 Q. Do you remember topics like a storage shed, something
17 about some barrels, and then, in order to testify, you make up
18 the details that go with the topics?

19 A. No, sir.

20 Q. Okay. You told these agents that Patti Steffens and Chico
21 Osborne hired some young men to steal the coins for them?

22 A. Yes.

23 Q. Did the agents say to you, "Well, there's nothing to
24 suggest that that happened. We know of nothing to suggest
25 that that's even in the same planet that we're in"?

Cross - Cross

1 A. No.

2 Q. No? Do you know Patti Steffens?

3 A. No, I do not.

4 Q. Did you know that she lived with David Waters?

5 A. No, I didn't know she lived with David Waters.

6 Q. All right. Did you know the woman who lived with Chico
7 Osborne?

8 A. No, I did not.

9 Q. And yet, you say that Gary Karr said that Patti and Chico
10 got together, hired some young men to steal the coins?

11 A. Yes.

12 Q. And do you say that Gary Karr said that, then, the young
13 men gave the coins to Chico and to Patti for their use?

14 A. I took it as they already had the coins themselves, and
15 they just paid these young men to distribute the coins. No,
16 they gave them some coins to distribute.

17 Q. Why would they give them some coins to distribute?

18 A. To make it -- you know, to make it easier for them to
19 spend the coins because they were putting coins in
20 circulation. That's how I took it.

21 Q. You understood Mr. Karr to tell you that Chico and Patti
22 had the coins?

23 A. Yes.

24 Q. So, then, do you say that Mr. Karr said that Chico and
25 Patti stole the coins from where they were kept?

Cross - Cross

1 A. No. Patti Jo -- it was her storage locker.

2 Q. It was?

3 A. Yes.

4 Q. All right. And so do you say -- is it your testimony that
5 Mr. Karr told you one day that Patti Jo stole the coins?

6 A. No, she didn't. He didn't say she stole the coins.

7 Q. Okay. Well, is it your testimony that Mr. Karr said that
8 Patti Jo had the coins?

9 A. Patti Jo had the coins.

10 Q. Okay. And do you claim that he told you how she got the
11 coins from the storage shed?

12 A. She always had the coins, I guess.

13 Q. Well, it's your testimony and you told these agents that
14 Gary Karr said that Patti and Chico basically had control of
15 the coins, correct?

16 A. Yes.

17 Q. But they gave a few to some young men to put into
18 circulation?

19 A. Yes.

20 Q. And you told the agents that?

21 A. Yes, I did.

22 Q. And they wrote it down?

23 A. I don't know if they wrote it down or not.

24 Q. Were they taking notes on what you said?

25 A. I believe they took some notes on what I said.

Cross - Cross

1 Q. When you decided to give some information to the federal
2 government, did you, yourself, contact a prosecutor, or the
3 FBI, or the IRS, or did your lawyer or did someone else, a
4 family member?

5 A. I don't know who -- I contacted my lawyer. I assumed my
6 lawyer contacted the prosecutor, asked about it.

7 Q. You were in jail in Kansas?

8 A. No. I was in Milam.

9 Q. Okay. That's right. Do you remember when you told your
10 lawyer?

11 A. I believe it was in August, also. Just a couple of days
12 -- I believe it was just a couple of days before they came to
13 see me.

14 Q. All right. And did they interview Aaron Morris at the
15 same time?

16 A. No.

17 Q. I don't mean at the same exact time, I mean on the same
18 trip.

19 A. I don't know.

20 Q. Okay.

21 A. I don't believe so.

22 Q. All right. You were in -- were you in a prison in or near
23 Fort Worth, Texas?

24 A. I'm not really familiar with Texas too much. I was in
25 Beaumont.

Cross - Cross

- 1 Q. Beaumont?
- 2 A. Yes.
- 3 Q. Is that where you are assigned to do your time?
- 4 A. Yes.
- 5 Q. At what prison were you with -- maybe more than one --
- 6 Marvin Gambrion?
- 7 A. That was in Milam.
- 8 Q. All right. Do you know where he is now?
- 9 A. I assume he is still at Milam.
- 10 Q. But if he's not, you don't know where he is?
- 11 A. No, I don't.
- 12 Q. You were in a cell sort of near Marvin Gambrion in Milam,
- 13 weren't you?
- 14 A. Yes, I was.
- 15 Q. And it was kind of a protected cell?
- 16 A. Yes, it was.
- 17 Q. And it was so that if nobody could hurt you for being a
- 18 government witness, right?
- 19 A. No, that's not the reason I was in there.
- 20 Q. And Mr. Gambrion was in a cell next to yours, wasn't he?
- 21 A. No, he wasn't directly next to me. He was quite a few
- 22 cells down, maybe three, four.
- 23 Q. All right. And was -- were you near where Aaron Morris
- 24 was being held at that time?
- 25 A. At the time that I was in the hall?

Cross - Cross

1 Q. Yes.

2 A. No. Aaron Morris was in a totally other building.

3 Q. Was Brian Chase --

4 A. No, I believe Aaron Morris was not even in Milam. I think
5 he had gone back to Kansas already.

6 Q. All right. And was Brian Chase near you and Mr. Gambrion?

7 A. No --

8 Q. All right.

9 A. -- he wasn't.

10 Q. There was another inmate that was near you and Mr.
11 Gambrion, wasn't there?

12 A. Yeah, there was a few inmates that were.

13 Q. Yeah, all right.

14 A. It was about seven or eight cells all next to each other.

15 Q. And among other topics, you and other inmates discussed
16 how to best give information to the federal law enforcement
17 people, even if it was made up, in order to get a lighter
18 sentence?

19 A. No, sir.

20 Q. After you found out that Gary Karr was associated with the
21 investigation into the O'Hair matter, isn't it true that you
22 told an inmate there when you were in this isolation area that
23 you called your wife and mother and asked them to research the
24 O'Hair matter?

25 A. No, sir.

Cross - Redirect

1 Q. Just for general interest?

2 A. No, sir.

3 Q. That's all the questions that I have.

4 MR. CARRUTH: Thank you, your Honor.

5 RE-DIRECT EXAMINATION

6 BY MR. CARRUTH:

7 Q. Counsel asked you about whether or not you were locked up
8 to protect you as a witness. Are you aware of any threats
9 that have been made against you or your family members as a
10 result of your cooperation in this case?

11 A. Yes, sir.

12 Q. And was Marvin Gambrion one of the witnesses who was
13 threatening your family?

14 A. Yes, sir, he was.

15 Q. Is he a friend of Mr. Karr's?

16 A. He said he was.

17 Q. Did Mr. Karr ever assist you in making any third-party
18 telephone calls from FCI Milam?

19 A. Yes, he did -- no, not from FCI Milam, no.

20 Q. From Wayne County Jail?

21 A. Yes, sir.

22 Q. Now, that was against the rules, wasn't it?

23 A. Yes, it's against the rules.

24 Q. How did Mr. Karr accomplish that?

25 A. Through his girlfriend, Kelly. He called her, and then,

Cross - Redirect

1 she would, like, click over and then, dial, like, the
2 telephone number to my wife. And then, you click back over
3 and let us talk, they set the phone down.

4 Q. Now, counsel asked you about what Mr. Karr told you about
5 cutting up bodies. Do you recall that?

6 A. Say it again.

7 Q. Counsel asked you a while ago about Mr. Karr telling you
8 they cut up bodies.

9 A. Yes, sir.

10 Q. In the storage unit?

11 A. Yes, sir.

12 Q. Did Mr. Karr tell you what they used to cut the bodies up?

13 A. Bow saw.

14 Q. Was it one or more bow saws?

15 A. Two bow saws.

16 Q. Did he mention any particular color of bow saw?

17 A. An orange one and a blue one.

18 Q. And did he state whether or not the FBI had one of the bow
19 saws?

20 A. I believe they said he had the orange one.

21 Q. Okay. Now, counsel also asked you about gold coins.

22 A. Yes, sir.

23 Q. Did Mr. Karr ever tell you where he was or what he was
24 doing when Jon Murray picked up these gold coins from the
25 bank?

Cross - Redirect

1 A. Waiting outside for him. He was following him.

2 Q. Okay. And counsel asked you about the statements Mr. Karr
3 said, make sure the O'Hairs were never all seen together. Did
4 Mr. Karr tell you why they followed that plan, if they did?

5 A. Because they didn't want everybody to be out at one time.
6 You know, they could keep two in the apartment and, you know,
7 let one come out and walk around and be seen.

8 Q. Did he mention anything about that's how you keep control
9 of the situation?

10 A. Yes.

11 Q. Counsel also asked you about the handcuffs, and if I
12 understood you correctly, you said the O'Hairs were handcuffed
13 not all the time but most of the time?

14 A. Yes.

15 Q. That's what he told you?

16 A. Yes, sir.

17 Q. Counsel asked if you could identify a photo taken back in
18 1955 where the defendant appears differently than he does
19 today.

20 A. Yes, sir.

21 Q. Does the defendant appear the same today as he did when he
22 was confined in jail with you, or has he changed his hair
23 style, or facial hair, or color of his hair?

24 A. I didn't really -- I didn't recognize anybody in the
25 picture so --

Cross - Redirect

1 Q. As you look at him today, does he look the same as he did
2 when he was in jail with you, or did he have facial hair, or
3 different hair style or color?

4 A. He had a beard, a beard, and he pretty much had the same
5 color hair.

6 Q. And did he tell you why he grew that beard?

7 A. So the witnesses that had seen him at the stores wouldn't
8 recognize him.

9 Q. Now, counsel asked you to speculate about Mr. Karr's
10 ticket to freedom. Why if you had a ticket to freedom, that
11 is, knowledge where the bodies were buried, why is he going to
12 trial; is that right?

13 A. Yes, sir.

14 Q. Do you remember that question?

15 A. Yes, sir.

16 Q. Do you reckon he's waiting to see if he's convicted in
17 this case to see if he cashes in that ticket?

18 A. I don't know. I mean, that would be my guess.

19 Q. Okay. By the way, did Mr. Karr ever advise you not to
20 talk to any other inmates about your case?

21 A. Yes, he did.

22 Q. Why did he tell you that?

23 A. Because he said that other inmates would try and get a
24 downward departure or, you know, try and get some time cut off
25 to go home early.

Cross - Redirect

1 Q. But other inmates would snitch on you?

2 A. Yes.

3 Q. Did you follow his advice and not discuss your case with
4 other inmates?

5 A. Yes, I did.

6 Q. Mr. Karr apparently didn't follow his own advice, did he?

7 A. No, he didn't.

8 Q. I'm going to show you, sir, what's been marked for
9 identification as W97-1. I'm going to ask you to take that
10 exhibit out and examine its contents, please, all 15 pages.
11 Do you recognize those 15 pages of handwritten notes?

12 A. Yes, sir.

13 Q. Are those in your own handwriting?

14 A. Yes, sir, they are.

15 Q. And were those notes made by you contemporaneously after
16 you had various discussions over a several-month period with
17 Mr. Karr?

18 A. Yes, sir.

19 Q. And are those the same notes you turned over to the
20 investigators when they interviewed you on August 12th of last
21 year?

22 A. Yes, they are.

23 Q. Your Honor, we would offer those notes under Rule
24 801(d)(b) as a prior consistent statement made by the witness,
25 which is offered to rebut the charge by Mr. Karr's attorneys

Cross - Redirect

1 of recent fabrication or improper motive.

2 MR. T. MILLS: There are just a very few individual
3 entries that have to do with different topics that I have
4 objection to and would like to have --

5 THE COURT: Well, members of the jury, you'll get to
6 have a little early break. Don't get spoiled on me. Fifteen
7 minutes.

8 (Jury not present.)

9 THE COURT: All right, counsel. I'm going to give you
10 the Exhibit W97-1. You could question the validity. The rule
11 is clear on simultaneous leave up to the jury. Tell me what
12 is so prejudicial that it should be redacted. Do you wish the
13 witness to remain in the hall?

14 MR. T. MILLS: No, sir. On page 2, entry No. 15 --
15 numbered 15, it tells what sentence Mr. Karr served previously
16 or was serving in some detail, and I think that it's in there
17 several times, and I think that that is prejudicial --

18 THE COURT: The whole thing is prejudicial. All the
19 evidence is prejudicial. But you did question his putting it
20 down at one time, and he said that he did it at several times
21 and just dated it. So you question the validity of his
22 statements, so technically, the government's tender is
23 appropriate.

24 But if there's something so prejudicial that
25 notwithstanding the now admissibility because of the

Cross - Redirect

1 cross-examination, I'll be glad to hear from you. But why
2 would the sentence that he is sentenced right now be so
3 prejudicial as to have to be redacted?

4 MR. T. MILLS: Well, it says Gary served 20 years and
5 ten months in prison, had seven felonies. It seems to me like
6 -- that that is the -- the specifics of that are so
7 prejudicial as to outweigh the relevance.

8 THE COURT: His whole testimony's based allegedly on
9 what the defendant told him.

10 MR. T. MILLS: Yes, sir.

11 THE COURT: And what the defendant told him you are
12 going to be arguing is so incorrect that he's not credible,
13 but the defendant told him that he wrote down, it appears to
14 me, is material. The objection's overruled. W97-1 is
15 admitted into evidence. You have a 15-minute break.

16 MR. CARRUTH: Thank you, your Honor.

17 MR. T. MILLS: I'm going to have one more objection to
18 make.

19 THE COURT: I'm sorry. I didn't mean to cut you off.

20 MR. T. MILLS: Page 6, there's an entry that says Gary
21 has seven felonies, served 20 years and ten months, and I
22 object to that on the same grounds. And I believe those are
23 the only two.

24 THE COURT: You know, when you take a hot chess pie
25 with lemon out of the oven and eat the whole thing, sometimes

Cross - Redirect

1 you get a stomach ache, Mr. Carruth.

2 MR. CARRUTH: I beg your pardon, your Honor?

3 THE COURT: Just sometimes when you eat the whole pie,
4 you get a stomach ache. What's the government's position on
5 the objections? In the event there is conviction, in the
6 event there is an appeal, you'll have to carry that on. Do
7 you wish to redact that or not?

8 MR. CARRUTH: I think it's what the defendant said,
9 your Honor. I think he said the same thing in his --

10 THE COURT: I've made a ruling. I'm asking the
11 government for their position on it.

12 MR. CARRUTH: The government will be willing to defend
13 it on appeal in the event of a conviction, because he made the
14 same statement in his voluntary confession to Agent Martin.

15 MR. T. MILLS: Which I'm objecting to, too, when that
16 statement -- I mean, that's the same issue.

17 MR. CARRUTH: And if counsel can come up with any law
18 whatsoever before this case is submitted to the jury, we can
19 redact it at that time as the Judge has --

20 THE COURT: Well --

21 MR. CARRUTH: But, I mean, Mr. Karr said it.

22 THE COURT: The only objection is in light of cross.
23 The only objection is, is it more prejudicial than probative
24 with regard to -- basically the same thing as the pictures.

25 MR. CARRUTH: I did not hear him make that specific

Cross - Redirect

1 objection.

2 THE COURT: Well, that's what he's making objection
3 on. I overruled it and the government's willing to ride on
4 it, that's fine. That's anything that he told him to put down
5 that would contest the validity or the credibility of the
6 witness is at issue. So 97-1 goes in.

7 MR. CARRUTH: Thank you, your Honor.

8 THE COURT: Are you through with this witness?

9 MR. CARRUTH: Your Honor, I have one more question --
10 or one more series of questions to ask him.

11 THE COURT: All right. Fifteen minutes.

12 (Recess.)

13 THE COURT: All right. Bring the jury in.

14 (Jury present.)

15 MR. CARRUTH: Your Honor, we re-offer Government
16 Exhibit W97-1.

17 THE COURT: And it's admitted.

18 MR. CARRUTH: Thank you.

19 MR. T. MILLS: My objection is noted.

20 THE COURT: Your objection is noted and overruled.

21 Q. (BY MR. CARRUTH) Sir, I'm told I may have misspoke as this
22 picture being 1995, someone indicated I said 1955, but that
23 was in 1995.

24 A. Yes, sir.

25 Q. Okay. I apologize. Sir, now, with regard to Exhibit

Cross - Redirect

1 97-1, the 15 pages of handwritten notes, at the top of each
2 page and, apparently, a different pen in some cases from the
3 notes themselves. Is the date August 12th --

4 A. Yes, sir.

5 Q. -- 1999? And the initials "J.C.," right here?

6 A. Yes, sir.

7 Q. And did you put that on there?

8 A. Yes, sir, I did.

9 Q. Does that stand for Jason Karr?

10 A. Jason Cross.

11 Q. Cross, I'm sorry.

12 A. Yes, sir.

13 Q. Now, besides making those notes, did you confide in anyone
14 else the things Mr. Karr was telling you over a period of
15 several months?

16 A. Mr. Chase?

17 Q. I'm sorry.

18 A. Brian Chase.

19 Q. Was Mr. Chase another inmate?

20 A. Yes, sir, he was.

21 Q. Did you say anything to your wife or any other family
22 members?

23 A. Yes, I told my wife and my mother about it.

24 Q. And did you tell your lawyer, Mr. Fink, about it?

25 A. Yes, sir, I did.

Cross - Recross

1 Q. Thank you, sir. Pass the witness.

2 RE-CROSS EXAMINATION

3 BY MR. T. MILLS:

4 Q. You did tell Brian Chase about the details of what you say
5 that Mr. Karr said to you, correct?

6 A. I don't remember everything that I told Mr. Chase, but
7 yes, I did tell Mr. Chase quite a few things about Gary Karr.

8 Q. All right. The notes are dated -- I don't know if you
9 still have that up there.

10 A. Yes, they're right here.

11 Q. They're dated August 12th, 1999, right?

12 A. Yes.

13 Q. And you have previously testified -- or let me ask you
14 this: Is that the date that you think the agents visited you?

15 A. That's the date I believe they visited me, yes, it is. It
16 is the date they visited me.

17 Q. All right. And that was less than a year ago?

18 A. Yes, yes, sir.

19 Q. All right. And then, you remember, when I asked you a few
20 minutes, about whether or not they next visited you in
21 September, October, November, December. Do you remember when
22 I asked you that?

23 A. Yes.

24 Q. All right. Now -- and you did not remember?

25 A. Yeah, I wasn't sure.

Cross - Recross

1 Q. And you still do not remember?

2 A. I'm still not positive, no.

3 Q. Okay. Well, do you remember whether or not this August
4 the 12th, 1999 was the first time the agents interviewed you?

5 A. No, it was not. It was not. It was the second time that
6 they visited me, I believe. You know what? I'm not positive.
7 I think it was -- I think I initialed these the second visit
8 and not the first visit.

9 Q. Well, if that's --

10 A. I did. I did not -- I initialed these the second visit.
11 I did. This was the second visit. So they would have visited
12 me before August.

13 Q. Yes, Mr. Cross, they would have.

14 A. Yes.

15 Q. Mr. Cross, they visited you on June 22nd, 1999, didn't
16 they?

17 A. I'm not positive, but yes, they did visit me before
18 August. I didn't recall -- I didn't recall when they did
19 visit.

20 Q. So a little bit ago when I was asking you, was it
21 September, October, November, December, it was none of those
22 months?

23 A. It was none of those. It was none of those.

24 Q. All right.

25 A. I didn't know -- I wasn't sure. I just wasn't sure. But

Cross - Recross

1 now I remembered looking at the paper that I had -- I remember
2 that I had given them these notes the second time, and
3 initialed them and dated them the second time.

4 Q. Yes, sir. Mr. Cross, is your memory such that you
5 remember things a long time in the past better than you
6 remember things more recently?

7 A. I pretty much remember the same.

8 Q. All right.

9 A. It's just I'm not that great with dates. So much has gone
10 on, you know, since I've been locked out. I didn't recall
11 when I initialed those the first or the second time.

12 Q. All right.

13 A. I'm positive I initialed them the second time, and it was
14 before August --

15 Q. Yes, sir. All right. I understand that you have said
16 that Mr. Karr said to you that he was going to have his hair
17 or his hair and mustache, or hair and beard, his grooming, his
18 hair such that witnesses couldn't identify him. Did he really
19 say that?

20 A. Yes, he did.

21 Q. Well, don't you agree that his hair in this picture -- I
22 put it back in here. I want you to see it as well as you can.
23 Looks just about identical with this photograph from 8-25-95?

24 A. I don't know if that's Gary Karr in that picture.

25 Q. All right. Well, if it is Gary Karr, this man right here,

Cross - Recross

1 don't you agree that this man's hair is darn near identical to
2 what it is right now?

3 A. Whoever that man is in that picture, it looks similar to
4 Gary's hair.

5 Q. All right. Which would be inconsistent with him growing
6 his hair long, or dyeing his hair, or bleaching his hair, or
7 anything like that, correct, because his hair's the same?

8 A. I don't know. That's what he told me.

9 Q. Do I understand that Mr. Karr told you that he was waiting
10 outside in the parking lot at Frost Bank so that when Jon
11 Murray walked out with a suitcase or a brief -- suitcase full
12 of gold coins that he would be there?

13 A. Yes, but he didn't say Frost Bank. He didn't tell me what
14 bank it was.

15 Q. All right. Are you aware that the bank officer and a
16 uniformed, armed policeman escorted Jon Murray to his
17 automobile, looked in the car, looked in the parking lot when
18 Jon Murray picked up his coins?

19 A. No, sir.

20 Q. How well do you know a prisoner named Martin Buchanan?

21 A. Martin?

22 Q. Martin Buchanan?

23 A. I don't really recall Mr. Buchanan. I recall the name a
24 little bit. I just can't picture the face.

25 Q. All right. Did you have conversations with an inmate

Cross - Recross

1 about talking to federal agents and making notes to make your
2 story more believable?

3 A. Repeat the question again.

4 Q. Did you talk to an inmate, a prisoner, about the advantage
5 of making some notes when you talked to the federal agents so
6 it would make it look more believable?

7 A. No, sir, I did not.

8 Q. I'd like to direct your attention to a statement in here.
9 These first five words. I have written, David has 500,000 of
10 money. Is that exactly the same thing as you have written
11 down there?

12 A. Yes, sir, it is.

13 Q. All right. Is it your testimony that Gary Karr told you
14 that David had \$500,000 in money?

15 A. Yes, he did.

16 Q. And that would be David Waters, you believe?

17 A. Yes, sir.

18 Q. From anything you have learned about this case, from any
19 source other than whatever Mr. Karr did or did not say to you,
20 television, anything, do you have any reason to believe that
21 anyone believing, even law enforcement, that David Waters got
22 \$500,000?

23 A. Does anybody believe that David Waters got \$500,000?

24 Q. Basically.

25 A. I don't know.

Cross - Recross

1 Q. Would you read this sentence to me where I'm starting
2 right here?

3 A. Right here?

4 Q. Yes. Starting with the word "Gary."

5 A. "Gary said you're still not sure if the O'Hairs are dead
6 or not."

7 Q. All right. Now, who was he referring to when he says
8 "Gary said you're still not sure"?

9 A. The agents, the people investigating the case.

10 Q. Gary said to you, "You're still not sure if the O'Hairs
11 are dead or not"?

12 A. Not me, the agents.

13 Q. Well, you didn't write down, "Gary said the agents still
14 are not sure if the O'Hairs are dead or not," did you?

15 A. No. I was writing this more or less to the agents, so
16 that's why I put in there, "Gary said you're still not sure."

17 Q. I see. And the next sentence is -- will you follow me?
18 "You have no idea how they were killed or if they're dead,
19 right?"

20 A. Yes.

21 Q. And was he telling you in that conversation that the
22 agents really didn't know if they were missing of their own
23 free will or if they were dead?

24 A. No, he didn't say if they were missing of their own free
25 will.

Chase - Direct

1 Q. I know. I don't have any other questions.

2 MR. CARRUTH: Nothing further, your Honor. May the
3 witness be excused?

4 THE COURT: Counsel?

5 MR. T. MILLS: Hold on just a minute, Judge. We don't
6 have any objection.

7 THE COURT: You may be excused, sir. You may call
8 your next witness.

9 MR. CARRUTH: Government calls from Brian Chase.

10 (Witness was sworn.)

11 THE COURT: If you'll walk around this column, please,
12 sir, and have a seat. Sir, if you'll tell us your full name
13 and spell your last name.

14 THE WITNESS: My name is Brian Chase, C-H-A-S-E.

15 BRIAN CHASE, called by the Government, duly sworn.

16 DIRECT EXAMINATION

17 BY MR. CARRUTH:

18 Q. Mr. Chase, please tell the members of the jury where you
19 live or where you've been staying prior to the last 24 hours.

20 A. I've been in the county jail here in Texas, here in
21 Austin.

22 Q. And prior to you being transported here, where were you
23 incarcerated?

24 A. At the Federal Detention Center, Milam, Michigan.

25 Q. Okay. And are you a convicted felon?

Chase - Direct

1 A. Yes, I am.

2 Q. For what felony have you been convicted?

3 A. I've been convicted for four felonies, conspiracy to
4 distribute cocaine, exportation of stolen aircraft, money
5 laundering, and murder for hire.

6 Q. All right, sir. And are you currently serving a federal
7 sentence for any or all of those prior convictions?

8 A. For all of them, sir.

9 Q. And what is your federal sentence?

10 A. Fifteen years.

11 Q. And where are you serving that federal sentence?

12 A. I'm still at the Federal Detention Center at Milam. They
13 haven't been designated yet.

14 Q. You're awaiting transporting to a Federal Bureau facility?

15 A. Yes, I am.

16 Q. During the time you were incarcerated in the Milam
17 facility, did you come to know the defendant in this case, Mr.
18 Gary Karr?

19 A. Yes, I did.

20 Q. Do you see him in the courtroom today?

21 A. There he is over there, behind you.

22 Q. Behind me?

23 A. Yes, sir.

24 Q. Okay. And how did you meet Mr. Karr?

25 A. He came into the same unit that I was living at, East Unit

Chase - Direct

1 at the Federal Detention Center.

2 Q. And did y'all have occasion to work together in any of the
3 facilities within the institution?

4 A. Yes, we did. We shared jobs in both the kitchen,
5 particularly the bakery and the commissary.

6 Q. Okay. Did you befriend Mr. Karr or did he befriend you?

7 A. A mutual befriending, I guess. We started to get to know
8 each other over the newspaper.

9 Q. Did you subscribe to a particular newspaper during the
10 time you were incarcerated at FCI Milam?

11 A. Yes, I did.

12 Q. FDC, Federal Detention Center?

13 A. Yes, sir. Detroit News.

14 Q. That's a local paper in Detroit, Michigan?

15 A. Yes.

16 Q. And did Mr. Karr express any interest in your copies of
17 the Detroit News?

18 A. Yes, he did. He came to me and asked me if he could read
19 the paper after I got done.

20 Q. And were you receiving this paper in the lock-up?

21 A. Yes, I was.

22 Q. How was it delivered, through the mail?

23 A. Yes, it is.

24 Q. Okay. And did he indicate to you why he wanted to see
25 your newspapers?

Chase - Direct

1 A. He said that there was news about his case in the paper
2 almost daily, I guess, and he wanted to read the articles
3 about his case.

4 Q. And did he make any statements to you when he was reading
5 or after reading those articles?

6 A. Yes, he did.

7 Q. What did he tell you?

8 A. Upon reading the first article, I delivered the paper to
9 him and he looked through it real quick and he saw the article
10 about his case, and he showed me the article and he said, "All
11 we got for this was a half a million in gold and we expected
12 to get a lot more."

13 Q. Now, do you know a gentleman by the name of Jason Cross?

14 A. Yes, I do.

15 Q. And you do you know Mr. Cross?

16 A. From FDC Milam.

17 Q. Were you cell mates or bunk mates at any time with Mr.
18 Cross?

19 A. Yes, I was.

20 Q. And was this at the time that Mr. Karr was also
21 incarcerated at the same facility?

22 A. While I was with Jason as a bunke, you mean?

23 Q. Yes, sir.

24 A. Yes, Mr. Karr was there, too.

25 Q. Okay. Did Mr. Cross ever discuss with you any

Chase - Direct

1 conversations he had with Mr. Karr about the case involving
2 the missing atheists?

3 A. Yes, he did.

4 Q. And did you prepare a letter based upon what Mr. Cross had
5 told you and mailed to the federal prosecutor in Detroit?

6 A. Yes, I did.

7 Q. Show you what's been marked Government Exhibit W99-1, sir,
8 I'll ask you to take that out of the envelope, examine the --
9 I believe it's three pages. See if you recognize that as a
10 copy of your letter.

11 A. Yes, sir, it is.

12 Q. Three pages and an envelope?

13 A. Yes, sir.

14 Q. What is the date of that letter?

15 A. 9-23-99.

16 Q. And to whom is it addressed?

17 A. Mr. Joe Allen.

18 Q. Who? Joe Allen?

19 A. He's a United States Assistant -- Assistant United States
20 Attorney that prosecuted me.

21 Q. And does that three-page letter detail or provide details
22 that Mr. Jason Cross had related to you about his
23 conversations with Mr. Karr?

24 A. Yes, it does.

25 Q. While you were incarcerated together?

Chase - Cross

1 A. Yes.

2 Q. At this time, we would offer Government Exhibit W99-1.

3 MR. T. MILLS: Objection to hearsay and improper
4 bolstering.

5 MR. CARRUTH: Well, your Honor, it's also a -- to show
6 a prior consistent statement by Mr. Cross to rebut counsel's
7 suggestion in front of this jury that it was a recent
8 fabrication or that it was for an improper motive.

9 THE COURT: Mr. Cross, did he sign this letter?

10 MR. CARRUTH: He did not, your Honor.

11 THE COURT: Well, the objection is sustained.

12 MR. CARRUTH: Thank you, your Honor. No further
13 questions. Pass the witness.

14 THE COURT: Questions of this witness?

15 MR. T. MILLS: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. T. MILLS:

18 Q. Mr. Chase, you -- tell me, again. I couldn't write fast
19 enough. You've been convicted of conspiracy to distribute
20 cocaine?

21 A. Yes, sir.

22 Q. What quantity?

23 A. Approximately 450 kilos.

24 Q. A thousand pounds?

25 A. Approximately.

Chase - Cross

1 Q. And you were convicted -- did you plead guilty?

2 A. Yes, I did.

3 Q. You were convicted for being hired to commit murder?

4 A. I was involved -- I hired somebody.

5 Q. You hired somebody?

6 A. Yes, sir.

7 Q. To murder somebody?

8 A. Yes, sir.

9 Q. And when did you get convicted on the thousand pounds of
10 cocaine?

11 A. When?

12 Q. When.

13 A. '97.

14 Q. And when did you get convicted for hiring someone to
15 commit murder?

16 A. 1997, also, they all came the same year.

17 Q. Did you hire someone to kill a rival drug dealer?

18 A. Yes, sir, I did.

19 Q. And then, what was the third conviction?

20 A. Exportation of stolen aircraft.

21 Q. You flew an airplane out of the United States that was
22 stolen?

23 A. Yes, sir.

24 Q. Where did you fly it to?

25 A. Columbia.

Chase - Cross

- 1 Q. To get drugs?
- 2 A. No, sir. To sell the plane.
- 3 Q. When did -- did you plead guilty?
- 4 A. In '97, also.
- 5 Q. Bad year?
- 6 A. Pardon me?
- 7 Q. What was your fourth conviction?
- 8 A. Money laundering.
- 9 Q. Did you plead guilty?
- 10 A. Yes, I did.
- 11 Q. 1997?
- 12 A. Yes, sir.
- 13 Q. How much money was involved?
- 14 A. \$2 million.
- 15 Q. The government seize the money?
- 16 A. I think they got \$350,000 assets from me.
- 17 Q. And you got a 15-year sentence -- or it was a higher
- 18 sentence, and it's already been reduced to 15?
- 19 A. I was sentenced to 15 years.
- 20 Q. Was that a result of having -- did you get a break on that
- 21 because you previously have testified against some other
- 22 people?
- 23 A. I agreed to testify and cooperate with the government, and
- 24 that's how I was given 15 years for that.
- 25 Q. All right. And you have testified in a case against

Chase - Cross

1 somebody else, haven't you?

2 A. Yes, two other cases already.

3 Q. Two other cases. And you understand that there's a rule
4 in the federal rule book that's dear to prisoners' hearts
5 that's No. 35.

6 A. Yeah, dear to some prisoners' hearts, yes.

7 Q. Right. And that gives the prosecutor the ability to ask a
8 judge to lower someone's sentence?

9 A. Yes, you can ask, yeah.

10 Q. And I guess, naturally, you would like to get as low a
11 sentence as possible?

12 A. Naturally, but I don't expect any.

13 Q. No. Did you also know Aaron Morris?

14 A. Yes, sir.

15 Q. Did you also see anything on TV about the O'Hair
16 investigation?

17 A. No, sir.

18 Q. Read any information about it?

19 A. I've read articles in the paper occasionally.

20 Q. And it's my understanding that one day -- did you say you
21 worked in the kitchen?

22 A. Yes, sir, I did.

23 Q. And did Gary Karr work in the kitchen?

24 A. Yes, he did.

25 Q. What did y'all do in the kitchen -- what did you do?

Chase - Cross

1 A. We were both in the bakery.

2 Q. Bakery?

3 A. (Moving head up and down.)

4 Q. Okay. And one day, he said, "All we got was a half
5 million dollars"?

6 A. That happened a month before we worked in the bakery. I
7 didn't even really know the man. He had been at the FDC Milan
8 perhaps two weeks when he said this.

9 Q. All right. Did he just hail you down and say, "Looked
10 like a nice trustworthy guy, all we got was a half million
11 dollars"?

12 A. He hailed me down to read the newspaper.

13 Q. Oh, okay.

14 A. When he saw the article, he started talking about it.

15 Q. Okay. And I guess -- well, from the context of it, did
16 you believe that he got -- or someone -- they got away with a
17 half million dollars in gold?

18 A. Yeah, I believe -- that's what he told me, yeah.

19 Q. Okay.

20 A. I assumed that.

21 Q. Right. How old are you?

22 A. I'm 49.

23 Q. 49?

24 A. Right.

25 Q. I don't have any further questions.

1 MR. CARRUTH: Nothing further, your Honor. May the
2 witness be excused?

3 MR. T. MILLS: Yes, sir.

4 THE COURT: You may be excused, sir.

5 THE WITNESS: Thank you.

6 THE COURT: Call your next witness.

7 MR. CARRUTH: United States calls J. R. Parelli, your
8 Honor. Parelli.

9 (At the Bench, on the record.)

10 MS. WILLIAMS: David Waters' house that he only -- he
11 and his girlfriend's case, kind of going down that same road.
12 So I don't know whether you want us to make our objections
13 before they wave it in front of a jury.

14 MR. CARRUTH: We do intend to offer evidence of a
15 crime, your Honor, it was seized at Mr. Waters' residence, the
16 112 rounds of ammunition, .380 calibers. We believe it's a
17 circumstance we should be entitled to show the jury the guns
18 are in evidence.

19 THE COURT: The guns are in evidence and the evidence
20 is that the guns were obtained from the brother. What's the
21 relevance of the --

22 MR. CARRUTH: They also had -- guns had bullets. I
23 mean --

24 THE COURT: Okay.

25 MR. CARRUTH: It's all part and parcel. I don't see

1 how you could do the guns without the bullets. We could
2 substitute photographs if that's an objection.

3 THE COURT: That's not the point. What else? We have
4 bullets?

5 MS. WILLIAMS: I don't really know. I mean, I've
6 asked to look at --

7 MR. CARRUTH: They're all laid out over there if you
8 want to look at them.

9 THE COURT: Members of the jury, I'm going to excuse
10 you for a minute. Please stay handy.

11 (Jury not present.)

12 THE COURT: My understanding -- or I assume Mr.
13 Parelli is a law enforcement officer.

14 MR. CARRUTH: FBI agent, your Honor, who acted as the
15 seizing officer during the execution of the search warrant of
16 Mr. Waters' residence of March 24th of last year.

17 THE COURT: Where?

18 MR. CARRUTH: In Austin, Texas.

19 THE COURT: And you proffer what testimony as a result
20 of the search warrant?

21 MR. CARRUTH: I'm proffering to connect up the chain
22 of custody on the seized evidence from Mr. Waters' residence
23 that includes many of the items that we've talked about before
24 and the witness, particularly the witness Patti Jo Steffens,
25 identified such as the spray bottle, and the bow saw, and the

1 holsters, and other items after various books and documents
2 that we believe were stolen from the O'Hairs and other items
3 that were taken from Mr. Waters' apartment.

4 THE COURT: All right. What is the objection?

5 MS. WILLIAMS: Well, there are several items over
6 there, your Honor, including bullets and --

7 THE COURT: I don't understand the importance of the
8 bullets. I understand well the saw. It seems like the
9 bullets are not very important to the saw when you get to
10 consider it. Other than bullets, what are the objections?

11 MS. WILLIAMS: I don't know until I look at the
12 evidence, your Honor.

13 THE COURT: Well, okay. I've got the jury out. Go
14 look at the evidence.

15 MS. WILLIAMS: Well, here's a marriage license of
16 Patti Jo Steffens and Dewayne Chavez.

17 THE COURT: Very important.

18 MR. CARRUTH: Mr. Waters acquired after she was
19 married and he, apparently, was stalking her. No, I say that,
20 your Honor, because he also had a photograph of the apartment
21 where she lived. And she had moved and he tracked her down
22 and even went so far as to get a copy of her marriage license.

23 MS. WILLIAMS: Ron Waters' birth certificate.

24 MR. CARRUTH: Mr. Ron Waters has previously identified
25 that along with a copy of a driver's license that had Mr.

1 David Waters' photograph on it, Mr. Ron Waters' name and a
2 Social Security card bearing Mr. Ron Waters' Social Security
3 number but signed by Mr. David Waters in his handwriting.

4 MS. WILLIAMS: Three watches.

5 MR. CARRUTH: There is testimony that from Patti Jo
6 Steffens that after the crime spree, Mr. Waters came home and
7 had new clothes and jewelry, including a Raymond Weil watch,
8 and other matters that had been purchased with the loot.
9 That's what that is. That's a speed loader for a
10 Nine-Millimeter semiautomatic pistol.

11 MS. WILLIAMS: We would object to that. Here are some
12 memo pads that I believe have names and addresses on them.

13 MR. CARRUTH: They do, your Honor, and, also, phone
14 numbers that we will attempt to show through our summary
15 witness that these individuals were in contact with each other
16 by telephone. It's based on the telephone records that have
17 been introduced.

18 MS. WILLIAMS: Well, Mr. Carruth, I'm specifically
19 referring to Government Exhibit W77-35. I don't believe
20 you'll find any coconspirators' names or addresses in that.

21 MR. CARRUTH: Those are e-mail addresses, your Honor,
22 of various individuals. There's been testimony that Mr. Karr
23 used the name KJEAR and that Mr. Waters used the name Sir
24 Rolland, communicated with each other via e-mail.

25 THE COURT: All right. It's obvious that we're going

1 to have lots of objections and lots of decisions to make as to
2 what is relevant or not, so we will proceed. I don't want any
3 speeches, though. On relevance objections, I'll have counsel
4 up at the bench so that I'll find out what the government's
5 theory is without having many jury arguments.

6 MR. CARRUTH: Yes, your Honor.

7 THE COURT: All right.

8 MS. WILLIAMS: Is it my understanding that the witness
9 is going to be allowed to identify the exhibit, and then, we
10 can object?

11 THE COURT: Well, I'll expect you'll object when they
12 move for the introduction of the evidence. But I don't know
13 what you're going to do; I don't foresee the future.

14 MS. WILLIAMS: Well, I would object to Mr. Carruth
15 approaching the witness with items that --

16 MR. CARRUTH: I don't know how else he can identify
17 them.

18 MS. WILLIAMS: And having them be identified in front
19 of the jury and then, so the jury already knows what it is,
20 it's not relevant to this case, and then, I'm forced to object
21 in front of the jury that it's not relevant to this case after
22 they already know what it is.

23 THE COURT: All right. Well, you've indicated, what,
24 the speed loader?

25 MS. WILLIAMS: Bullets. I don't see the bullets.

1 THE COURT: How about giving me a number, counsel?

2 MS. WILLIAMS: All right. W77-28, a speed loader.

3 MR. CARRUTH: Tom Mills is --

4 THE COURT: No. We'll just get a list of the
5 objections right now.

6 MS. WILLIAMS: Exhibit W77-25, a black box with a
7 wire. W77-24, a different black box with a wire. W77-16, Ron
8 Waters' birth certificate. W77-41, Patti Jo Steffens' and
9 Dewayne Rodriguez-Chavez' marriage license.

10 THE COURT: What is the date on that?

11 MR. CARRUTH: The date it was issued by -- it was
12 recorded by the Clerk of Travis County on October 15, 1998.
13 It was certified on that date, also. And attached to that is
14 a resume of David R. Waters.

15 THE COURT: All right. What is the number on that?

16 MR. CARRUTH: This is Government Exhibit W79-41, your
17 Honor.

18 THE COURT: All right.

19 MR. CARRUTH: Those are knives from Mr. Waters' house.

20 MS. WILLIAMS: Ron.

21 MR. CARRUTH: No, David.

22 MS. WILLIAMS: W77-30 Sylvester Choice Handle knife
23 and sheathe, W77-29, a different knife and sheathe. W77-49, a
24 watch. W77-21, another memo pad with names and phone numbers.

25 MR. CARRUTH: With Mr. Karr's e-mail address on the

1 front.

2 THE COURT: I'm going to ask -- when they finish the
3 list, I'm going to ask you what the relevance is. You might
4 be ready.

5 MS. WILLIAMS: W77-54, two watches, one Timex -- three
6 watches, one Timex, one Jazz, one Citizen. W77-34, a spiral
7 notebook containing what looked like web site addresses, some
8 notes from playing a computer game.

9 MR. CARRUTH: There was evidence, your Honor --

10 THE COURT: Okay. I've got it down. Let's go to the
11 next one.

12 MS. WILLIAMS: W77-20, a red address book, W77-46, a
13 daytimer address book. W77-14, an address book with a
14 unicorn. W77-19 --

15 THE COURT: Wait. Okay. 77 what?

16 MS. WILLIAMS: Did you get 14?

17 THE COURT: I've got 14, the unicorn address book.

18 MS. WILLIAMS: W77-19, address and phone directory.
19 W77-6, what purports to be a gun case with a pair of earplugs
20 inside. W77-36, what looked to be David Waters' resumes and
21 job application.

22 MR. CARRUTH: Where he lists Mr. Chico Osborne as a
23 reference, your Honor.

24 THE COURT: I take it he didn't --

25 MR. CARRUTH: Shows that he was working for him when

1 in truth and in fact he's not except they were working on this
2 case. We're trying to tie these people together because it is
3 a conspiracy, your Honor.

4 THE COURT: Well, any further on the list?

5 MR. CARRUTH: A copy of an Exhibit W77-51, which has
6 previously been introduced into evidence through Denise
7 Cushman, a copy of that same document, tying it to Mr. Waters
8 and showing that he received it. It was found in his
9 apartment as was the copy of the July 1995 Atheist Newsletter,
10 marked W77-52.

11 MS. WILLIAMS: W77-40, a copy of the Federal Gun
12 Control Act for deferred adjudications of David Waters.

13 MR. CARRUTH: Showing Mr. Waters that it was illegal
14 for him to ship or transport firearms in interstate commerce.

15 THE COURT: Kind of self-improvement material?

16 MS. WILLIAMS: Government Exhibit 15, a Social
17 Security card in the name of Ron Waters.

18 MR. CARRUTH: Which has previously been identified by
19 the witness, Ron Waters, as having the --

20 THE COURT: Wait a minute. We've got to go over this
21 in a minute. Let's just take a -- what is W15? The 77-15?

22 MS. WILLIAMS: No. It's just Government Exhibit 15.

23 MR. CARRUTH: Government 77-15 should be.

24 MS. WILLIAMS: All right. That's 77-15. And 77-13,
25 an Illinois driver's license in the name of Ron Waters.

1 MR. CARRUTH: And whose photograph is on that license?

2 MS. WILLIAMS: Can't tell you.

3 MR. CARRUTH: It's Mr. David Waters.

4 MS. WILLIAMS: All right. The following exhibit
5 numbers all appear to be bullets of some kind. W77-7, 77-9,
6 77-11, 77-12, 77-8 and 77-10. Two holsters, 77-26 and 77-27.

7 THE COURT: All right. Mr. Carruth, let's start off
8 with my list as W77-28, the speed loader. What relevance is
9 that?

10 MR. CARRUTH: The speed loader, your Honor, is a gun
11 accessory for the Nine-Millimeter Browning that's already in
12 evidence. It enables one to load the magazine with that gun
13 without wearing out your thumb. We think the evidence
14 suggests that firearms were used in this case to abduct the
15 O'Hairs, they were kidnapped, handcuffed. And, obviously,
16 those firearms were loaded with bullets.

17 THE COURT: All right. What did the black boxes with
18 the wire -- 77-25?

19 MR. CARRUTH: That is a sending and receiving device,
20 your Honor, such as allows the coconspirators to maintain
21 contact with each other while one or the other of them is with
22 the O'Hairs, guarding them or setting on them.

23 THE COURT: All right. Ron Waters' birth certificate.

24 MR. CARRUTH: It shows, as Mr. Waters previously
25 testified, that he did not know his brother David had that nor

1 did he know how he got his Social Security card with his
2 signature on it. That was not Ron Waters' signature nor did
3 he know how he got his driver's license that has Ron Waters'
4 name and address on it but the photograph of Mr. David Waters.

5 THE COURT: What relevance is that?

6 MR. CARRUTH: There's been a lot of talk in this case
7 about false IDs. And we also found a book on false IDs, and
8 we just want to show that --

9 THE COURT: All right. You don't have to stretch to
10 show that Mr. Waters is not the all-American boy.

11 MR. CARRUTH: Yes, sir, he's a coconspirator of Mr.
12 Karr.

13 THE COURT: Well, that's true, you know, he may have
14 kicked his mother, but that's not relevant right now. What
15 relevance specifically is the Ron Waters -- his brother's
16 materials?

17 MR. CARRUTH: Well, his brother --

18 THE COURT: Other than just unexplained stuff,
19 prejudicial stuff?

20 MR. CARRUTH: Well, everything we introduce is
21 probably prejudicial to the defendant. It's our job to
22 present --

23 THE COURT: I'm asking the relevance to one of these
24 charges.

25 MR. CARRUTH: It relates to Mr. David Waters, a

1 coconspirator in this case, with Mr. Karr.

2 THE COURT: All right. How about the certificate of
3 marriage of Chavez and Steffens?

4 MR. CARRUTH: It corroborates Ms. Patti Jo Steffens'
5 testimony that she left Mr. Waters and married Dewayne Chavez,
6 which she testified to previously, and that somehow, Mr.
7 Waters acquired this after she left and married Mr. Chavez.

8 THE COURT: The knives and the sheathes.

9 MR. CARRUTH: The evidence now indicates that the
10 O'Hairs were cut up inside a storage unit. Anyone who has
11 ever been a deer hunter or filleted a fish or anything with a
12 carcass knows you normally use a knife. Since the Court did
13 not let us get in photographs that show the jagged wounds or
14 the smooth wounds, the jury can't look at those and determine
15 whether the cuts were made with a bow saw or a knife, even the
16 medical examiner could not determine.

17 So in a circumstantial evidence case, we believe the
18 cutting instruments that the defendants had is very
19 significant and very relevant, and for that reason, we would
20 like to re-offer the switch blade knives that the Court later
21 -- earlier declined based on the testimony that we've heard
22 since then about the cutting up of the bodies in the storage
23 unit.

24 THE COURT: Well, I may not have gutted as many deer
25 as in this courtroom, but I would bet \$5 on it. I've never

1 used a switch blade knife because it would take you forever.
2 What kind of knives are they?

3 MR. CARRUTH: These are sheathe knives, the one out of
4 Mr. Waters' house.

5 THE COURT: Let me look at them.

6 MR. CARRUTH: Yes, sir.

7 THE COURT: All right. W49, a watch.

8 MR. CARRUTH: That's the Raymond Weil watch that Patti
9 Jo Steffens, a witness, testified Mr. Waters purchased. We
10 intend to show through our summary witness on what the
11 coconspirators did with the money they obtained from this
12 criminal enterprise, and part of it was buying this watch.

13 THE COURT: I take it it's different from a Timex?

14 MR. CARRUTH: Yes, it's a very expensive watch, your
15 Honor.

16 THE COURT: All right. Memo pad, W77-21.

17 MR. CARRUTH: On the front of that memo pad, your
18 Honor, appears KJEAR, which has previously been indicated to
19 be the e-mail address of the defendant, Mr. Gary Karr.

20 THE COURT: All right.

21 MR. CARRUTH: Timex, Jazz and Citizen watches.

22 MR. CARRUTH: Those are other pieces of jewelry that
23 Mr. Waters bought after the crime spree with the proceeds of
24 the crime.

25 THE COURT: I don't know anything about anything, but

1 Timex --

2 MR. T. MILLS: I don't remember anything on that.

3 THE COURT: Are these offered because they're
4 expensive jewelry?

5 MR. CARRUTH: No, your Honor. But there's more than
6 one watch in here. I'd like for the -- would the Court like
7 to look at them?

8 THE COURT: Well, I wouldn't know one from another.
9 I'm asking you the relevance. Do you believe that he got --
10 his \$500,000, ran out and bought a Timex watch?

11 MR. CARRUTH: Your Honor, we know what happened to the
12 \$500,000. There was also approximately 90,000 --

13 THE COURT: I don't know that anybody knows anything.

14 MR. CARRUTH: There was also approximately \$90,000 in
15 cash that was obtained through credit cards and stuff. And
16 the evidence is indicated that all the coconspirators spent
17 freely to buy new clothes, shoes, watches, and so forth, other
18 jewelry.

19 THE COURT: All right. I don't know it shows anything
20 more than he might be selling watches. All right. Notebook,
21 W77-39 -- excuse me, 77-34, I'm sorry. Some notebook.

22 MR. CARRUTH: This has an e-mail addresses of various
23 individuals, and including some folks in Indianapolis,
24 Indiana, who were the victims of a home invasion robbery, and
25 that was the source of the guns that we've heard testimony

1 about including the Tech 9 that Mr. David Waters had his
2 brother, Ron Waters, mail over to Mr. Gary Karr and, also, a
3 certain .22 caliber revolver that Mr. Karr had in his
4 possession when he was arrested, was stolen.

5 We also found photographs in Mr. Waters' apartment
6 that came out of this home invasion robbery.

7 MR. T. MILLS: We would, of course, be objecting to
8 evidence of a home invasion robbery in another state.

9 MR. CARRUTH: Well, the notebook itself does not say
10 anything about a home invasion robbery. It simply shows the
11 address of these people in Indianapolis with the line drawn
12 through it, crossing them out along with many other people
13 whose names were crossed out.

14 THE COURT: And what gun was obtained in that
15 alleged --

16 MR. CARRUTH: Three weapons, your Honor, .380 caliber
17 semiautomatic pistol, Tech 9 semiautomatic pistol, and .39
18 Revolver, as well as .22 caliber Mr. Karr admits to his
19 statement and his fellow inmates that he had.

20 THE COURT: All right. Red address book, 77-20.

21 MR. CARRUTH: Mr. Gerald Chico Osborne's number is in
22 this address book. He's one of the unindicted coconspirators.
23 And what we intend to offer through our summary witness is
24 evidence to tie all these coconspirators together through
25 phone numbers and phone records to show that various

1 coconspirators were calling each other during the time frame
2 of the conspiracy.

3 THE COURT: All right. The daytime address book,
4 77-46.

5 MR. CARRUTH: This is an address book which contains
6 both Mr. Gary Karr's and Mr. Chico Osborne's addresses and
7 telephone numbers.

8 THE COURT: All right. How about 77-14?

9 MR. CARRUTH: That is an address book containing the
10 name and phone numbers for Gerald Chico Osborne and Osborne's
11 sister, Connie Tandy, who he gave as a reference when he
12 rented that storage locker with Mr. Waters on September 26th
13 of 1995, and her name and address and that phone number appear
14 on that document that's in evidence just to show who she is.

15 THE COURT: Unicorn. Okay. How about the phone
16 directory, 77-19?

17 MR. CARRUTH: That's an address book containing the
18 names of Francis Cuccinata, a witness who previously testified
19 in this case, that Mr. Karr stayed with her immediately upon
20 being released from prison in the greater Chicago area. Dan
21 Fry, we know what happened to him. Bob Fry, Mr. Gary Karr,
22 Mr. Osborne and Connie Tandy, Mr. Osborne's sister.

23 THE COURT: All right. 77-6, the gun case and -- I
24 assume, empty gun case.

25 MR. CARRUTH: Yes, it is an empty gun case, your

1 Honor, and this gun case is depicted in one of the photographs
2 that's already been admitted showing Mr. David Waters firing
3 his Nine-Millimeter at the shooting range. It's open before
4 him on the shooting bench.

5 There was testimony by the witness, Patti Jo Steffens,
6 that during the time that these three men were gone for a
7 month or so, that the gun was gone, too, and so were the
8 handcuffs. It's another circumstance, your Honor, to show
9 that firearms were used culpable with the fact that she had
10 three fanny packs, each of which would hold the
11 Nine-Millimeter that normally is kept in this case.

12 THE COURT: Mr. Waters' resume, 77-36.

13 MR. CARRUTH: He lists in there that he worked for
14 Fleet Management, which was owned and operated by Mr. Gerald
15 Lee Osborne. It's another tie to Mr. Osborne. And he never
16 did work for Mr. Osborne except in an illegal enterprise.

17 THE COURT: All right. How are you going to prove
18 that?

19 MR. CARRUTH: Well, I can call the witness if you'll
20 let me. But it is just a circumstance, your Honor, of what we
21 found, tying him to Mr. Osborne.

22 THE COURT: Okay. W15, Social Security card of Ron
23 Waters.

24 MR. CARRUTH: Mr. Ron Waters has previously identified
25 that as being his Social Security number but not his

1 signature. It also is a link between Mr. Ron Waters and Mr.
2 David Waters and corroborates Mr. Ron Waters' testimony that
3 after the crime spree, Mr. Waters sent or brought certain
4 evidence to be concealed by Mr. Ron Waters, which he --

5 THE COURT: All right. How about the holster?

6 MR. CARRUTH: The holsters, again, as part of the
7 guns, your Honor, everything dealing with firearms.

8 THE COURT: All right. Counsel want to make any
9 specific statement with regard to any of these numbers before
10 I make a ruling?

11 MS. WILLIAMS: Well, I'd like just to point out to the
12 Court that some of the things that Mr. Carruth has told the
13 Court about why he thinks these are admissible --

14 THE COURT: Are not --

15 MS. WILLIAMS: -- are not in evidence.

16 THE COURT: That's true, but I don't know if they're
17 going to be or not. I certainly understand what is and what
18 is not in the record.

19 MS. WILLIAMS: All right. Other than that, no, your
20 Honor.

21 MR. CARRUTH: I didn't know that they specifically
22 objected to this but --

23 MS. WILLIAMS: I didn't.

24 MR. CARRUTH: -- Mr. Mills is expressing an interest
25 in it. It is a videotape of the America's Most Wanted segment

1 on the O'Hairs, and it was found in Mr. Waters' apartment.

2 MS. WILLIAMS: I didn't object to that.

3 MR. CARRUTH: Okay. The jury may want to play it.

4 THE COURT: Certainly hope not. All right.

5 MR. CARRUTH: Did they object, I believe, to the
6 Federal Gun Control Act, W77-40?

7 THE COURT: They did. Is there anything other than
8 the Federal Gun Control Act on there?

9 MR. CARRUTH: For deferred adjudications, there's been
10 evidence in the record through the form of the July '95
11 Atheist Newsletter about Mr. Waters' prior conviction and the
12 fact that he was -- this reflects that he was -- I believe it
13 has a date on it that it was executed on July 6th, 1995, after
14 he was placed on deferred adjudication probation for stealing
15 \$54,000 from the O'Hairs.

16 There's been testimony offered that part of his motive
17 in this case, greed and revenge, was a desire to get back at
18 the O'Hairs because they had him prosecuted in this case.
19 That's another circumstance, your Honor.

20 THE COURT: They are circumstances and there are
21 circumstances. Anything further?

22 MS. WILLIAMS: No, your Honor.

23 THE COURT: All right. I don't see that it has any
24 relevance, but I don't see where it is prejudicial either. On
25 the Chavez-Steffens marriage, what is the specific objection?

1 Counsel at the end of the case is getting around to use this
2 in his argument, he's grasping at straws.

3 MS. WILLIAMS: My objection, your Honor, is simply
4 that it's not relevant to this case.

5 THE COURT: And your ideas it's evidence --

6 MR. CARRUTH: It supports -- bolsters -- or not
7 bolsters but substantiates her testimony that she left Mr.
8 Waters and married Mr. Chavez.

9 THE COURT: Well, that's not relevant. The speed
10 loader --

11 MR. CARRUTH: She testified to that without objection,
12 your Honor.

13 THE COURT: Well, that's wonderful. I hope she gets a
14 trophy for it.

15 MR. CARRUTH: Would you tell me the exhibits you're
16 excluding, your Honor, so we won't offer?

17 THE COURT: W79-41, W77-34, the notebook. You have
18 not indicated to me anything on that particular notebook that
19 ties into any of the alleged conspirators.

20 MR. CARRUTH: That does relate to an extraneous
21 offense, your Honor, which the government may seek to re-offer
22 under 404B before we rest and close.

23 THE COURT: All right. 77-6, 77-36, gun case and
24 gloves and Waters' resume, indicate that they took bullets,
25 but the whole series of bullets, I don't see any relevance

1 whatsoever.

2 MR. CARRUTH: May the agent be permitted to testify
3 that they did seize 112 rounds?

4 THE COURT: That is a fact.

5 MR. CARRUTH: Yes, your Honor.

6 THE COURT: But doesn't need to be admissible, and I
7 don't see any point in the holsters. So the relevance
8 objection will be sustained, if appropriately made, on W79-41,
9 W77-34, W77-6, W77-36, W77-9, 7, 11, 12, 8 and 10.

10 MR. CARRUTH: That was 9, 7, 11 --

11 THE COURT: Let's do it this way. It's 7, 8, 9, 10,
12 11 and 12. That will help you.

13 MR. CARRUTH: Yes, your Honor.

14 THE COURT: And the holsters are 77-26 and 27.

15 MR. CARRUTH: 26 and 27.

16 THE COURT: Sustain for relevance objections on that
17 subject to retender if they become relevant. All right.
18 Bring the jury in.

19 MR. CARRUTH: Thank you, your Honor.

20 THE COURT: Bring the witness back in, please.

21 (Jury present.)

22 THE COURT: Be sworn, sir.

23 (Witness was sworn.)

24 THE COURT: And if you'll walk around, please, sir,
25 this column, have a seat in the blue chair. I need for you to

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1 tell us your full name and spell your last name, please, sir.

2 THE WITNESS: My name is Emil Parelli, spelled
3 P-A-R-E-L-L-I.

4 EMIL PARELLI, called by the Government, duly sworn.

5 DIRECT EXAMINATION

6 BY MR. CARRUTH:

7 Q. Do you also go by J. R. Parelli?

8 A. Yes, I do.

9 Q. Is that because you're a junior?

10 A. Yes, sir.

11 Q. Would you please tell the members of the jury where you
12 reside, what city, and how you're currently employed?

13 A. I'm employed by the Federal Bureau of Investigation, and
14 I'm currently assigned to the Bridgeport, Connecticut Resident
15 Agency.

16 Q. And where were you assigned back on March 24th of 1999?

17 A. I was assigned to the Austin, Texas Resident Agency.

18 Q. Did you have an occasion to participate on that date, in
19 March 24, 1999, concerning the execution of a search warrant
20 at the residence of David Rolland Waters, here in Austin,
21 Texas, at 6008 North Lamar Boulevard, Apartment 219?

22 A. Yes, I did.

23 Q. What were your particular duties and responsibilities on
24 that occasion?

25 A. I was assigned as the seizing agent. I was responsible

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1 for collecting the evidence collected during the search.

2 Q. And so as the evidence was allocated by any of the
3 officers, you would seize it and mark it in some way with your
4 initials so that you could identify it later?

5 A. Yes, sir.

6 Q. How long did you spend at Mr. Waters' residence on that
7 date, sir?

8 A. We were there for approximately nine hours.

9 Q. And were there any other state or federal law enforcement
10 officers, besides yourself, present during the execution of
11 that search warrant?

12 A. Yes, sir, there were 14 other law enforcement officers.

13 Q. And were those state or federal or mixture thereof?

14 A. There was a mixture thereof. There was some federal and
15 some state law enforcement.

16 Q. Okay. Did you seize any evidence on that occasion?

17 A. Yes, sir, we did.

18 Q. And as the law requires, did you make a return be filed
19 with the Court?

20 A. Yes, sir, we did.

21 Q. And did you arrest Mr. Waters or did someone arrest Mr.
22 Waters on that date as a result of the evidence seized in his
23 residence?

24 A. Yes, sir, another agent arrested Mr. Waters.

25 Q. Why was Mr. Waters arrested on that occasion?

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1 A. He was arrested for the charge of felon in possession of
2 ammunition.

3 Q. And did you find some ammunition in Mr. Waters' residence?

4 A. Yes, sir, we did.

5 Q. Approximately how many rounds of ammunition and what type,
6 if you can tell us?

7 A. I believe the total was 118 rounds of ammunition, 30 was
8 of a .357 Magnum, 41 rounds of .380 caliber, and 47 rounds of
9 Nine-Millimeter.

10 Q. Okay. Now, what, in particular, were you searching for on
11 that occasion?

12 A. We were searching for weapons. We were searching for
13 records concerning use of funds of possibly stolen money. We
14 were searching for any evidence of crimes.

15 Q. And what particular crimes were you investigating or
16 against whom, if you recall?

17 A. We were searching for evidence of crimes concerning
18 conspiracy, interstate transportation of stolen money, money
19 laundering, conspiracy for money laundering, and felon in
20 possession of a firearm.

21 Q. Okay. And did you have an occasion to read the search
22 warrant affidavit prior to execution of the warrant on that
23 date?

24 A. Yes, sir, I did.

25 Q. Now, you did not apply for that warrant, did you, sir?

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1 A. No, sir.

2 Q. Do you know who the affiant was or the applicant for the
3 warrant?

4 A. Yes, sir, it was Special Agent Martin from Internal
5 Revenue Service.

6 Q. Who's seated here in the courtroom with me, correct?

7 A. That's correct.

8 Q. And each officer was assigned a particular role, I gather;
9 is that correct?

10 A. Yes, sir.

11 Q. And you were the seizing officer?

12 A. That's correct.

13 Q. Okay. Let me show you some items, sir. And I apologize,
14 these are not going to be in any particular order, but I want
15 you to look through these and tell me if you can identify all
16 of them as having been seized by you on the occasion in
17 question, and then, we'll talk about what they are, sir.

18 First, I want you to try to locate your mark or
19 initials, or what have you.

20 A. Yes, sir, these are items I seized.

21 Q. Are those all or some of the items?

22 A. These are some of the items.

23 Q. All right, sir. Let's begin, first, with this large book
24 here. Would you read the Government Exhibit Number on it,
25 please?

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1 A. W77-44.

2 Q. We'd offer W77-44.

3 MS. WILLIAMS: No objection.

4 THE COURT: Received.

5 Q. (BY MR. CARRUTH) And does that appear to be a book about
6 the Renaissance?

7 A. Yes, sir.

8 Q. And if you'd open -- I believe there's some business cards
9 contained in that book. Is the book mark --

10 A. Yes, sir.

11 Q. Would you turn to those, please, and tell me whose name
12 appears on the business cards?

13 A. First business card is R. Murray O'Hair.

14 Q. Okay.

15 A. And the second is also R. Murray O'Hair.

16 Q. Okay. Thank you. Please replace them. All right. Let's
17 look at this book, sir. It's marked W77-43, which we would
18 offer at this time.

19 MS. WILLIAMS: No objection.

20 THE COURT: Received.

21 Q. (BY MR. CARRUTH) Does this appear to be a book about The
22 Inquisition, the various torture instruments?

23 A. Yes, sir.

24 Q. And does it bear a stamp inside the cover?

25 A. Yes, sir, it does.

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1 Q. And what is stamped there?

2 A. Appears to be a rubber stamp. It's the American Atheist
3 Pittsburgh Chapter in Pittsburgh, Pennsylvania.

4 Q. All right, sir. The next exhibit, sir, is marked
5 Government Exhibit W77-3, and appears to be a series of manila
6 folders. We would offer that at this time, your Honor.

7 MS. WILLIAMS: No objection.

8 THE COURT: It's received.

9 Q. (BY MR. CARRUTH) And do these appear to have been taken
10 from some file cabinet or filing system?

11 A. I believe they were taken from the dining room table
12 filing system.

13 Q. Okay. And the various individual folders are dated here.
14 We have November '94 and January '94. They have dates
15 appearing on the tabs, correct?

16 A. Yes, sir.

17 Q. And I believe on the front of that, there's some
18 description of the literary guide, free thinker, and some
19 volume and description numbers; is that correct?

20 A. That's correct.

21 Q. Now, Government Exhibit W77-4, we would offer at this
22 time.

23 MS. WILLIAMS: No objection.

24 THE COURT: It's received.

25 Q. (BY MR. CARRUTH) Now, these appear to be original -- is

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1 that what you call a first cover or stamped envelopes from the
2 American Atheists when an American atheist comes of age?

3 A. They appear to be original envelopes, yes, sir.

4 Q. Okay. And W77-1 appears to be a cashier's check. We'd
5 offer W77-1.

6 MS. WILLIAMS: No objection.

7 THE COURT: Received.

8 Q. (BY MR. CARRUTH) And on that is a handwritten note that
9 says, "Jon, I found this recently on my desk. It is payment
10 for shipment of books out of Houston. And it's made payable
11 to Westheimer Allied Van Lines in the sum of \$2,450"?

12 A. That's correct, sir.

13 Q. And Mr. Waters had that in his apartment?

14 A. Yes, he did.

15 Q. I offer W77-5.

16 MS. WILLIAMS: No objection.

17 THE COURT: Received.

18 Q. (BY MR. CARRUTH) And this appears to be a document
19 consisting of several pages relating to U.S. postal
20 cancellations issued by the United States Postal Service for
21 an atheist event --

22 MS. WILLIAMS: Your Honor, I object to Mr. Carruth
23 testifying, leading.

24 Q. (BY MR. CARRUTH) Well, would you read, then, what that is,
25 sir?

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1 A. Yes, sir. It says, "The very first cancellation ever
2 issued by the United States Postal Service for an atheist
3 event."

4 Q. And does it have Madalyn O'Hair's photograph on there?

5 A. Yes, sir.

6 Q. And does it have a quote from her down here?

7 A. Yes, sir.

8 Q. Please read that into the record.

9 A. It says, quote, don't tell me how great I am, send money.
10 Madalyn Murray O'Hair.

11 Q. Thank you. And W77 -- is that 2?

12 A. Appears to be a 2, yes, sir.

13 MS. WILLIAMS: No objection.

14 THE COURT: Received.

15 Q. (BY MR. CARRUTH) These appear to be billing statements,
16 and would you read where they're from, please?

17 A. Yes, sir. They are from the Midtown Self-storage in
18 Kansas City, Missouri, and it's --

19 Q. Who does it indicate is the tenant for that billing
20 statement?

21 A. CESAALA, Incorporated, D/B/A, AA Press.

22 Q. Okay. And do you know what that stands for?

23 A. I believe it's the American Atheist Press.

24 Q. Okay. And does it also include a purchaser's copy of a --
25 what appears to be a cashier's check in the sum of \$70 payable

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1 to Midtown Self-storage?

2 A. Yes, sir.

3 Q. And can you tell me the date that that instrument was
4 executed?

5 A. It was dated 4-20 of '94.

6 Q. Do you know whether or not that would have been after Mr.
7 Waters left the employment of the O'Hairs, or do you know
8 that?

9 A. I do not know that.

10 Q. And then, we have W77-52.

11 MS. WILLIAMS: No objection.

12 THE COURT: It's received.

13 Q. (BY MR. CARRUTH) Does that appear to be the July 1995
14 edition of the American Atheist Newsletter?

15 A. Yes, sir.

16 Q. Edited by Jon G. Murray, Madalyn Murray O'Hair, and
17 showing the managing editor is R. N. Murray O'Hair?

18 MS. WILLIAMS: Again, I object to Mr. Carruth
19 testifying.

20 MR. CARRUTH: Well, your Honor, he can say it, I can
21 say it. I'm trying to save a little time on what it is.

22 THE COURT: I appreciate you saving time, but we'll
23 stay with the Rules of Evidence.

24 MR. CARRUTH: Thank you, your Honor.

25 Q. (BY MR. CARRUTH) Now, I'm handing you another group of

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1 exhibits, sir, and see if you could search through them and
2 see if you can find your identifying mark that enables you to
3 state with certainty that those came out of the search that
4 you've described.

5 A. Yes, sir, they all came from the search.

6 Q. And do all of those exhibits appear to be some sort of
7 address or telephone book, something that you would record
8 names, addresses, telephone numbers, and so forth, in?

9 A. Yes, sir, they all are.

10 Q. We would offer at this time Government's Exhibits 14, 19,
11 20, 22 and 46.

12 MS. WILLIAMS: I'm sorry, 46?

13 MR. CARRUTH: 46. All bearing the prefix W77.

14 MS. WILLIAMS: Renew my previous objection that those
15 books contain material not relevant in this case.

16 THE COURT: Subject to being connected up, the Court
17 admits 77-14, 19, 20, 22 and 46.

18 Q. (BY MR. CARRUTH) I'll show you another group of exhibits,
19 Mr. Parelli, and I want you to examine them for your initials
20 or identifying mark.

21 A. Yes, sir, they all came from the search.

22 Q. All right, sir. Let's begin with Government Exhibit No.
23 23 -- W77-23, which has already been admitted through another
24 witness, but can you identify this book as having come from
25 the search of David Waters' residence in March of last year?

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1 A. Yes, sir, Poor Man's James Bond.

2 Q. Are you familiar with what that book is about?

3 A. Not very, no, sir.

4 Q. Have you ever looked through the book?

5 A. No, sir, I can't say that I have.

6 Q. Would you look here, where it's tabbed, and tell me what
7 it purports to show?

8 A. Yes, sir, it purports to show how to prepare firearms
9 silencers, and an impact ignition fire bomb.

10 Q. Thank you, sir. W77-51, we offer at this time.

11 MS. WILLIAMS: No objection.

12 THE COURT: It's received.

13 Q. (BY MR. CARRUTH) Can you tell us what that is, sir?

14 A. Yes. It's a letter dated January 29th, 1997 to David.

15 Q. Okay. Is it talking about the O'Hairs in particular?

16 A. Yes, sir.

17 Q. Okay. W77-35, appears to be some memo pads clipped
18 together.

19 MS. WILLIAMS: No objection.

20 THE COURT: Received.

21 Q. (BY MR. CARRUTH) And without opening them, I guess you
22 don't know what they contain, do you?

23 A. I believe they contain the names and addresses and
24 things --

25 Q. Of various individuals?

Parelli - Direct

1 A. Exactly.

2 Q. Okay. W77-18.

3 MS. WILLIAMS: No objection.

4 Q. (BY MR. CARRUTH) That's a book, and would you read the
5 title, please?

6 THE COURT: Received.

7 A. It is New ID In America. How To Create A Full-Proof New
8 Identity.

9 Q. (BY MR. CARRUTH) Thank you. W77-53.

10 A. Is a videotape.

11 Q. We would offer -- is 18 in, your Honor?

12 THE COURT: 18 is in.

13 MR. CARRUTH: We would offer 53.

14 MS. WILLIAMS: No objection.

15 THE COURT: It's received.

16 Q. (BY MR. CARRUTH) That appears to be a videotape. Do you
17 have any idea what's on that videotape?

18 A. I believe it is an episode of America's Most Wanted.

19 Q. Okay. About anybody in particular?

20 A. I believe it was about the O'Hairs.

21 Q. W77-21, another memo pad containing names, addresses and
22 phone numbers?

23 MS. WILLIAMS: No objection.

24 THE COURT: It's received.

25 Q. (BY MR. CARRUTH) W77-33, do you recognize that?

Parelli - Direct

1 A. Yes, sir.

2 Q. We would offer it at this time.

3 MS. WILLIAMS: No objection.

4 THE COURT: Received.

5 Q. (BY MR. CARRUTH) Appear to be some sort of ticket -- or
6 receipt for Greyhound Bus Lines?

7 A. That's what it states, yes, sir.

8 Q. And can you tell where the traveler was going?

9 A. Looks to me, Peoria, Illinois and Bloomington, Illinois.

10 Q. Okay. Please look at these exhibits, sir, and tell me if
11 you can identify them.

12 A. Yes, sir, they're all documents we took at the search.

13 Q. Is it 33 instead of 39?

14 THE COURT: It's 39 instead of 33.

15 MR. CARRUTH: I apologize. I re-offer it.

16 THE COURT: Let the record show W77-39, which is the
17 Greyhound ticket, is admitted.

18 MR. CARRUTH: Thank you.

19 Q. (BY MR. CARRUTH) All right. You recognize all these
20 documents I've handed you?

21 A. Yes, I do.

22 Q. Let's begin with W77-16.

23 MS. WILLIAMS: I object to that as not relevant to
24 this case.

25 THE COURT: All right. That's in.

Parelli - Direct

1 Q. (BY MR. CARRUTH) All right. Now that that is in, would
2 you tell the members of the jury what it is, please?

3 A. Yes, sir. The certificate of birth of Ronald Waters.

4 Q. And that was found in Mr. David Waters' apartment?

5 A. Yes, sir.

6 Q. Now, do you also -- we'd offer Government W77-15.

7 MS. WILLIAMS: No objection.

8 THE COURT: Received.

9 Q. (BY MR. CARRUTH) Can you tell us what that exhibit is,
10 please, sir?

11 A. That is a Social Security card in the name of Ronald
12 Jeffrey Waters.

13 Q. And it came out of Mr. David Waters' apartment?

14 A. Yes, it did.

15 Q. We offer W77-13.

16 MS. WILLIAMS: No objection.

17 THE COURT: Received.

18 Q. (BY MR. CARRUTH) Is that a driver's license?

19 A. It's an Illinois state driver's license in the name of
20 Ronald Waters.

21 Q. And whose photograph is shown on that driver's license
22 bearing the name Ronald Waters?

23 A. Appears to be that of David Waters.

24 Q. Finally, Government's Exhibit 17.

25 MS. WILLIAMS: No objection.

Parelli - Direct

1 THE COURT: Received.

2 Q. (BY MR. CARRUTH) What is Government's Exhibit 17? And
3 please hold it up to the light, if you can, and see if you
4 could see anything.

5 A. It's a copy of a Texas Department of Public Safety
6 driver's license with a woman's photo on it.

7 Q. And has anything been whited out that you can tell?

8 A. Yes, it looks to be the name of David Waters whited out.

9 Q. Okay. Please examine this next stack of exhibits, sir,
10 for your initials or identifying mark.

11 A. Yes, sir.

12 Q. All right, sir. Let's begin, first, with W77-49.

13 MS. WILLIAMS: No objection.

14 THE COURT: It's received.

15 Q. (BY MR. CARRUTH) Can you identify that exhibit, sir, what
16 it contains?

17 A. Yes, sir, it's a Raymond Weil wrist watch.

18 Q. All right, sir. What about Government's Exhibit W77-54?

19 MS. WILLIAMS: Renew my previous objection that that
20 exhibit is not relevant to this case.

21 THE COURT: That objection is overruled.

22 Q. (BY MR. CARRUTH) Would you please identify what's
23 contained in that exhibit, sir?

24 A. Yes, sir, there are three different wrist watches.

25 Q. All right, sir. How about W77-45? We'd offer that.

Parelli - Direct

1 MS. WILLIAMS: No objection.

2 THE COURT: Received.

3 Q. (BY MR. CARRUTH) Could you remove that from the binding,
4 sir, and take it out and tell us, first of all, who does it
5 say on the top? Who is it addressed to and who is the return
6 address from?

7 A. Addressed to David Waters at 6008 North Lamar, No. 219,
8 Austin, Texas, and the return address is also from David
9 Waters, 6008 North Lamar, No. 219, Austin, Texas.

10 Q. And there are several documents contained in that manila
11 folder, are there not?

12 A. There's a manuscript.

13 Q. And what is the title of that manuscript?

14 A. The title is Good Gawd! Madalyn, The
15 Not-So-Sudden-Disappearance of Madalyn Murray O'Hair, The Most
16 Hated Woman In America.

17 Q. And does it say who it's prepared by or typed by?

18 A. It says by David R. Waters.

19 Q. Okay. Please put it back. Please look at the next group
20 of exhibits, Agent Parelli, and tell us if you can identify
21 them as having come from the search.

22 A. The map I can't find my initials on, but everything else I
23 did locate from the search.

24 Q. Okay. For the record, that's Government Exhibit No. --

25 A. 48.

Parelli - Direct

1 Q. -- 48. Without objection, your Honor, we'd offer
2 Government Exhibit W77-48.

3 THE COURT: It's received.

4 Q. (BY MR. CARRUTH) And does that appear to be a city map of
5 a particular city in the United States?

6 A. Yes, sir, it is the city map of Kansas City, Kansas and
7 Missouri.

8 Q. And is that to your recollection the same place, the
9 storage record where that library came from?

10 A. Yes, sir.

11 Q. Now, show you Government's Exhibit No. W77-30, and offer
12 it at this time.

13 MS. WILLIAMS: Object to relevance.

14 THE COURT: The objection is overruled.

15 Q. (BY MR. CARRUTH) What is that, sir?

16 A. It is a straight-edge knife with a turquoise handle and a
17 sheathe.

18 Q. Sheathe knife or hunting knife?

19 A. That's correct.

20 MS. WILLIAMS: I'm sorry. What's that exhibit number?

21 MR. CARRUTH: W77-30.

22 Q. (BY MR. CARRUTH) W77-23?

23 A. Looks like 29.

24 Q. 29. W77-29.

25 MS. WILLIAMS: Object to relevance.

Parelli - Direct

1 THE COURT: Objection is overruled.

2 Q. (BY MR. CARRUTH) What is that exhibit, sir?

3 A. That appears to be a hunting knife, also, with a sheathe.

4 Q. All right, sir. W77-24 and 25. We offer those at this
5 time.

6 MS. WILLIAMS: Object to relevance.

7 THE COURT: Those objections are overruled and they're
8 received.

9 Q. (BY MR. CARRUTH) Can you describe those devices for us,
10 sir?

11 A. They're -- they appear to be two parts of a transmitting
12 and receiving device.

13 Q. All right, sir. Take a look at that, sir, and see if
14 you're able to identify it.

15 A. Yes, sir.

16 Q. Did that come out of the search of Mr. Waters' house?

17 A. Yes, it did.

18 Q. We would offer Government Exhibit W77-28.

19 MS. WILLIAMS: Object to relevance.

20 THE COURT: It's overruled.

21 Q. (BY MR. CARRUTH) What is that exhibit, Agent Parelli?

22 A. That is what is known as a magazine loader.

23 Q. Sometimes called a speed loader?

24 A. It would be a speed loader for a magazine. It would
25 assist in loading ammunition into a magazine.

Parelli - Direct

1 Q. What type of weapon does that fit or could it be used
2 with, if you know?

3 A. I believe it's a Nine-Millimeter.

4 Q. All right, sir. Now, these three fanny packs have
5 previously been introduced into evidence, but I want you to
6 see if you can identify them with your initials as having come
7 out of the search of Mr. Waters' apartment.

8 A. They don't bear my initials, but I do recall getting those
9 at the search warrant.

10 Q. They're already in through another witness, but you do
11 recall seeing those and they're included on your return?

12 A. That's correct.

13 Q. Okay. These exhibits, too, were, likewise, entered
14 through another witness, W77-31 and 32. Do you recognize
15 either or both of those exhibits, sir?

16 A. Yes, sir, I do.

17 Q. And for the record, those are what?

18 A. They appear to be torn pieces of T-shirts.

19 Q. And they came out of Mr. Waters' apartment?

20 A. Yes, they did.

21 Q. Government Exhibit W77-38.

22 MS. WILLIAMS: No objection.

23 Q. (BY MR. CARRUTH) Do you recognize that exhibit, sir?

24 A. Yes, sir.

25 Q. We'd offer that at this time, your Honor.

Parelli - Cross

1 THE COURT: Received.

2 Q. (BY MR. CARRUTH) And what is that for the record, sir?

3 A. That's a bow saw.

4 Q. And what is the color on the handle of the bow saw?

5 A. Orange.

6 Q. I show you what's been marked W77-37 for identification,
7 and ask you if you recognize it?

8 A. Yes, sir, I do.

9 Q. Did that come out of the search of Mr. Waters' residence?

10 A. Yes, it did.

11 Q. We offer Government's W77-37.

12 MS. WILLIAMS: No objection.

13 THE COURT: Received.

14 MR. CARRUTH: We pass the witness, your Honor.

15 CROSS-EXAMINATION

16 BY MS. WILLIAMS:

17 Q. Sir, what was the date of the search?

18 A. March 24th of 1999.

19 Q. And do you know when the date of the indictment in this
20 case is? Do you know when the alleged conspiracy took place?

21 A. The dates I recall from the search warrant was August of
22 1995 and September of 1995.

23 Q. Your Honor, at this time, I'll offer Defendant's Exhibit
24 D28 and Exhibit A, D29 and D29A and B, and D30 and D30A.

25 MR. CARRUTH: No objection, your Honor. These are

Parelli - Cross

1 stipulations which the government has agreed.

2 THE COURT: I want to make sure I've got it. 28, 28A,
3 29A, 29B, 30?

4 MS. WILLIAMS: 29 has A and B.

5 THE COURT: Right. And the 30?

6 MS. WILLIAMS: 30 and 30A.

7 THE COURT: 30A?

8 MS. WILLIAMS: Yes, your Honor.

9 THE COURT: Are admitted.

10 Q. (BY MS. WILLIAMS) You testified that W77-37 came out of
11 the search of David Waters' apartment; is that correct?

12 A. That's correct.

13 Q. May I publish the stipulation, your Honor?

14 THE COURT: Yes.

15 Q. (BY MS. WILLIAMS) If Robert Rooney were called to testify
16 in the above number and styled cause, he would testify on May
17 20th, 1999, he was employed by the Federal Bureau of
18 Investigation in the chemistry unit, that he was duly
19 qualified on that date, and attached Exhibit A hereto is a
20 true and correct copy of his report and contains its finding.

21 Sir, I'm going to ask you to look at D28A for a
22 moment.

23 A. Yes, ma'am.

24 Q. Isn't it the case that Mr. Rooney's report indicates that
25 the spray bottle was tested and that no bleaches or ammonia

Parelli - Cross

1 cleaners were identified at all?

2 A. That's what the report says.

3 Q. And he came from the FBI lab, correct?

4 A. I believe so. That's what it says at the top of --

5 Q. You don't have any reason to doubt Mr. Rooney, do you?

6 A. No, ma'am.

7 Q. All right. You testified, didn't you, that you
8 recollected that these three fanny packs came out of the
9 search of David Waters' apartment in 1999, correct?

10 A. That's correct.

11 Q. 77-50A, B and C?

12 A. Yes, ma'am.

13 Q. Let me hand you Defendant's Exhibit 30A. May I publish
14 this stipulation, your Honor?

15 THE COURT: You may.

16 Q. (BY MS. WILLIAMS) If Carlo Rosati were called to testify
17 in the above-numbered cause, he would testify on March 16th,
18 2000, he was employed by the Federal Bureau of Investigation
19 in the Firearms and Tool Marks Unit, that he was duly
20 qualified on that date, and that the attached Exhibit A hereto
21 is a true and correct copy of his report and contains his
22 finding.

23 Isn't it the case that Mr. Rosati's report indicates
24 that he examined these three fanny packs and microscopically
25 and chemically and found no presence of gunshot residue?

Parelli - Cross

1 A. That's what the report states, yes, ma'am.

2 Q. Have any reason to doubt it, do you?

3 A. No, ma'am.

4 Q. It was your prior testimony, was it not, that Government's
5 Exhibit 77-38, the saw, 77-30, a silver knife and sheathe, and
6 77-29, another knife and sheathe, were taken in the search of
7 Mr. Waters' apartment?

8 A. That's correct.

9 Q. Let me ask you to look at Defendant's Exhibit D29A. May I
10 publish this stipulation, your Honor?

11 THE COURT: You may.

12 Q. (BY MS. WILLIAMS) If Melissa Ann Smrz were called to
13 testify in the above-numbered cause, she would testify that on
14 August 4th, 1999 and September 29th, 1999, she was employed by
15 the Federal Bureau of Investigation in the DNA Analysis Unit
16 1, that she was duly qualified as an expert on that date, and
17 that attached Exhibits A and B hereto are true and correct
18 copies of her reports and contain her finding?

19 Now, isn't it true, sir, that Ms. Smrz indicates that
20 she tested both the knife and sheathe, contained in 77-30, the
21 knife and sheathe, contained in 77-29, and the bow saw,
22 77-38 --

23 A. I'm sorry. Does this refer to numbers? I can't tell you
24 which ones she had examined.

25 Q. All right. You can examine those, if you'd like, but I --

Parelli - Redirect

1 I represent to you that if you'll compare those numbers,
2 that's what you'll find.

3 A. If they're identical to those, then, yes, ma'am.

4 Q. All right. That Ms. Smrz tested those items that are in
5 front of you and conducted a chemical test for the presence of
6 blood and found no blood.

7 A. If those are the same ones that she cited in her report
8 because she cited there was one -- at least there was --

9 MR. CARRUTH: Your Honor, I stipulated to this.
10 There's no need to question the witness. We stipulated and
11 agreed with providing them the reports.

12 MS. WILLIAMS: I just want to make sure that the
13 witness were satisfied that these were the items that were
14 tested. There is one she said there was some blood on, some
15 item, I just wanted to make sure it wasn't one of the three we
16 were talking about. If those item numbers matched up to where
17 she said there was none, then I believe there was none.

18 Q. (BY MS. WILLIAMS) All right. Those are all the questions
19 I have.

20 RE-DIRECT EXAMINATION

21 BY MR. CARRUTH:

22 Q. Agent Parelli, do you still have those stipulations
23 counsel was waving around?

24 A. No, sir.

25 Q. The first one here she asked you about was a -- by a

Parelli - Redirect

1 chemist by the name of Robert Rooney, remember that, on the
2 spray bottle?

3 A. Yes, sir.

4 Q. And she only had you read part of that where it says no
5 bleaches or ammonia cleaners were found. What does Mr. Rooney
6 say in the sentence immediately preceding that sentence about
7 the bleaches?

8 A. It says solid and liquid residue was removed from the Q126
9 spray bottle contained components consistent with insecticides
10 such as Cyprometrin (phonetic).

11 Q. And are you aware, or are you not, where a prior witness
12 has testified that that bottle, at one time, contained
13 insecticides?

14 A. No, sir, I'm not aware of that.

15 Q. Okay. Counsel also asked you about the absence of gunshot
16 residue on the fanny packs. Now, you carry a firearm in the
17 normal course of your duties, do you not?

18 A. Yes, I do.

19 Q. Do you normally clean your firearm after you use it?

20 A. Yes, sir, I do.

21 Q. And do you know what cleaning does to the presence of
22 gunshot residue?

23 A. It should remove the gunshot residue.

24 Q. And would you -- of course, you're not a chemist, I
25 understand, or an expert in firearms or tool marks, but do you

Parelli - Redirect

1 know what it would require -- and I don't want you to answer
2 this if you don't know. But do you personally know what it
3 would require to deposit gunshot residue on an item of
4 clothing, or a fanny pack, or any such item?

5 A. No, sir, I really don't.

6 Q. Okay. And counsel also asked you about the absence of any
7 blood on certain cutting and sawing instruments that have been
8 introduced. Are you aware or do you know that bleach degrades
9 blood or DNA?

10 A. I learned that yesterday, yes, sir.

11 Q. And that there's been prior testimony by DNA experts that
12 they cleaned their instruments with bleach. Just remove --

13 MS. WILLIAMS: Your Honor, I object to that as outside
14 the record.

15 THE COURT: Well, it's not outside the record. It's
16 testimony unsworn without a question.

17 MS. WILLIAMS: Object to leading.

18 MR. CARRUTH: It's in the record, your Honor.

19 THE COURT: Ask the question.

20 Q. (BY MR. CARRUTH) Are you aware of that testimony, sir?

21 A. No, sir, I was not.

22 Q. Thank you. Pass the witness.

23 THE COURT: Any further questions?

24 MS. WILLIAMS: No, your Honor.

25 THE COURT: You may be excused. Members of the jury,

1 it's a fortunate day for you. You will not have to listen to
2 the speech I have to give on intellectual properties today, at
3 noon, so that you will not ever know that I know very little
4 about intellectual property. I was reminded last evening by
5 my secretary this method.

6 However, it is my full intent to start up at 1:30.
7 But if we're a few minutes behind, be patient with me. But
8 remember the instructions. Have a full lunch. Be ready to
9 work at 1:30.

10 (Jury not present.)

11 MR. CARRUTH: We have two more witnesses, your Honor.
12 We'll make every effort to finish this witness. They're
13 lengthy summary.

14 THE COURT: All right. 1:30.

15 (Lunch recess.)

16 THE COURT: All right, counsel. Anything before we
17 bring in the jury?

18 MR. CARRUTH: No, your Honor.

19 MR. T. MILLS: No, sir.

20 THE COURT: Bring in the jury.

21 (Jury present.)

22 THE COURT: Members of the jury, during the noon hour,
23 did anyone attempt to talk to you about this case?

24 THE JURORS: No.

25 THE COURT: Did you talk to anybody about the case?

Cowling - Direct

1 THE JURORS: No.

2 THE COURT: Did you learn anything at all about the
3 case outside the presence of one another and this courtroom?

4 THE JURORS: No.

5 THE COURT: Thank you. Show negative responses by all
6 jurors to all questions. You may call your next witness.

7 MR. CARRUTH: United States would call Donna Cowling
8 to the stand.

9 (Witness was sworn.)

10 THE COURT: If you'll tell us your full name and spell
11 your last, please.

12 THE WITNESS: My name is Donna C. Cowling. It's
13 C-O-W-L-I-N-G.

14 DONNA C. COWLING, called by the Government, duly sworn.

15 DIRECT EXAMINATION

16 BY MR. CARRUTH:

17 Q. Please tell the members of the jury where you reside and
18 what your current occupation is.

19 A. I reside here in Austin, Texas, and I am an agent with the
20 Federal Bureau of Investigation.

21 Q. And are you, together with Mr. Ed Martin of the Internal
22 Revenue Service, one of the co-case agents in the case now on
23 trial against Mr. Karr?

24 A. I am.

25 Q. By way of background, could you briefly tell the jury how

Cowling - Direct

1 your agency became involved in this particular investigation?

2 A. During late October of 1998, we received a phone call from
3 the United States Attorney's Office regarding a meeting that
4 was going to occur at United States Attorney's Office with
5 regard to Madalyn Murray O'Hair, Jon Garth Murray and Robin
6 Murray O'Hair.

7 I attended a meeting. I learned certain information
8 from Agent Martin regarding a disappearance of the O'Hairs,
9 and at that point in time, the FBI got involved initially on a
10 possible theft case where Mr. Murray would have -- that he
11 took the \$600,000, and it would have been a theft case if the
12 FBI could be involved in.

13 We also got involved by way of looking for the O'Hairs
14 as possibly having been kidnapped.

15 Q. And prior to that time, to your knowledge, had the O'Hair
16 case been treated, at least by the Austin Police Department,
17 as a missing person's case?

18 A. That is correct.

19 Q. And did there come a time when the focus of the
20 investigation changed after the identification of Mr. Fry's
21 remains?

22 A. That is correct.

23 Q. And shortly after that occurred, I believe -- would that
24 have been in January of this year --

25 A. I believe --

Cowling - Direct

1 Q. -- or '99, excuse me?

2 A. -- I believe it was the end of January, 1999.

3 Q. Shortly after that incident that the identification of Mr.
4 Fry's remains, did you come to know a lady by the name of
5 Patti Jo Steffens?

6 A. Within a day or so of the newspaper article coming out
7 about the identification of Mr. O'Hair -- excuse me, of Mr.
8 Fry, I met Patti Jo Steffens.

9 Q. And did you seek her out or did she seek you out?

10 A. She seeked us -- it was through her husband that we
11 initially met. She did -- I did not go to her initially.

12 Q. Okay. And for the record, his name was Mr?

13 A. It was Dewayne Chavez.

14 Q. Okay. And did you have one or more meetings with Ms.
15 Steffens?

16 A. We had numerous meetings.

17 Q. Where she relayed certain information to you without going
18 into the -- what it was at this time?

19 A. That is correct.

20 Q. And at some point in time, did her attorney get involved?

21 A. Yes, he did.

22 Q. And his name is?

23 A. Wayne Meisner.

24 Q. And did Mr. Meisner negotiate with the United States
25 Attorney's Office, as well as District Attorney's Office in

Cowling - Direct

1 the Dallas County, Texas, an immunity of use agreement on
2 behalf of Ms. Steffens?

3 A. Yes, he did.

4 Q. What does that mean, if you know?

5 A. It's my understanding that as long as Ms. Steffens tells
6 us the truth about everything regarding this matter and any
7 possible involvement she may or may not have had that she will
8 not be prosecuted for the information that she provides us,
9 but if we were to find out other information outside of her
10 providing it to us, she could be prosecuted.

11 Q. Now, during the time that Ms. Steffens has been
12 cooperating with your investigation, has she been residing out
13 of state at an undisclosed location?

14 A. Yes, she has.

15 Q. And why was that necessary?

16 A. After speaking to Ms. Steffens early on and obtaining or
17 finding out the amount of information she knew, it was very
18 apparent to us that Ms. Steffens was scared for her life. So
19 within a week or so, we had her moved out of the state for her
20 protection.

21 Q. And counsel, when he was cross-examining Ms. Steffens
22 early in this trial, elicited testimony from her that you and
23 she had had many visits, 30, or 40, or 50, or 60, or something
24 of that amount, is that a true statement?

25 A. That is correct.

Cowling - Direct

1 Q. And were all of those visits or contacts for the purpose
2 of eliciting information, or might there have been other
3 purposes in you contacting Ms. Steffens or she contacting you?

4 A. There were contacts that we had that did not have to do
5 with testimony or information that she was providing regarding
6 this case.

7 Q. Such as?

8 A. For instance, I received a phone call from Ms. Steffens,
9 she left me a phone message at work --

10 Q. Without going into what was said. She left me a phone
11 message where she was leaving, where she was residing to a --

12 MR. T. MILLS: Excuse me. Object to hearsay.

13 THE COURT: Sustained.

14 Q. (BY MR. CARRUTH) Just the nature of the conversation.
15 There were contacts to check on her welfare --

16 A. There were contacts the see how she was doing, to see how
17 members of her family were doing, et cetera.

18 Q. And during the course of this investigation, did you come
19 to meet and interview the mother of Ms. Patti Jo Steffens?

20 A. I have not personally met her. I've spoken to her on the
21 phone on numerous occasions.

22 Q. And did you learn her identity?

23 A. Yes, I did.

24 Q. And what is the name of the mother of Patti Jo Steffens?

25 A. Loria Wise.

Cowling - Direct

1 Q. Now, you were present in the courtroom when Ms. Steffens
2 testified that sometime during 1995, that her mother visited
3 her in Austin, Texas and had a medical injury that required
4 treatment. Do you recall that?

5 A. That is correct.

6 Q. And did you make an effort to check the various hospitals
7 or emergency rooms in an attempt to locate a record of that
8 lady receiving medical treatment in September of 1995?

9 A. The one hospital that I checked was Seton Emergency Room,
10 which is where Ms. Steffens told me she took her mother.

11 Q. I'm showing you, Agent Cowling, what's been marked for
12 identification as Government Exhibit W53-1. I'll ask you to
13 remove that document from the envelope and see if you
14 recognize it.

15 A. Yes, I do.

16 Q. Is that a record of the medical records from Seton
17 Hospital regarding the mother of Patti Jo Steffens?

18 A. Yes, it is.

19 Q. We'd offer Government's Exhibit W53-1.

20 MR. T. MILLS: We don't have any objection to those
21 medical records coming in, Judge.

22 THE COURT: All right. Received.

23 Q. (BY MR. CARRUTH) Now that that record is in evidence, can
24 you tell us the date on which she received medical treatment
25 and for what condition?

Cowling - Direct

1 A. The admit date is 9-19, 1995.

2 Q. And does it indicate what her complaint was, nature of her
3 injury?

4 A. It says, "Chief complaint, ankle injury."

5 Q. Okay. Now, there's also been some testimony in this trial
6 regarding three young men who -- I believe the news media
7 characterizes as the gold thieves in San Antonio?

8 A. That is correct.

9 Q. Came in here and said they got off with some gold coins.
10 Well, first of all, let me ask you: Without revealing any
11 confidential sources, can you tell us how the FBI found those
12 three gentlemen?

13 A. We received a phone call -- our San Antonio office
14 received a phone call -- I believe it was during the Memorial
15 weekend holiday last year -- from a female who did not
16 identify herself and said that she had information that a
17 young man by the name of Joey Cortez was bragging about having
18 stolen some coins and that he was selling these coins at a
19 jewelry store in San Antonio.

20 They gave us the crosstreets where the jewelry store
21 was close to but could not provide us with any further
22 information than that. Myself and Agent Martin, the following
23 week, traveled to San Antonio, located numerous jewelry stores
24 in this area. We finally located a jewelry store by the name
25 of Leon Valley.

Cowling - Direct

1 And in looking through their records, what we found
2 was only one sale of a gold coin by an individual named Joey
3 Cortez. But what we also noticed was that there were numerous
4 individuals that were selling coins around the same time
5 frame. These individuals appeared to be about the same age.
6 A lot of them lived within the same zip code.

7 After that, Agent Martin and I obtained a copy of the
8 1995 yellow pages and then, proceeded to different coin
9 dealers that were in the yellow pages during 1995. From
10 there, we obtained a lot of the same names. We also obtained
11 some additional names. And that was how we got our list from
12 the individuals that we contacted later in June.

13 Q. And did you and Mr. Martin and other agents attempt to
14 locate and interview all of these named individuals?

15 A. We did during June in coordination with the San Antonio
16 Police Department, the IRS and the FBI. We contacted these
17 individuals.

18 Q. And approximately how many individuals were you able to
19 identify who admitted to you that they had assisted one of
20 these three young men in disposing of some gold coins in late
21 1995?

22 A. I believe that there may have been 13 or 14.

23 Q. And can you provide the names of those individuals for the
24 record, please, ma'am?

25 A. I apologize. I left it sitting on the table. The

Cowling - Direct

1 individuals whom we contacted who had received from the sale
2 of gold coins were Joe Cardenas, Virginia Cardenas, Noey
3 Villarreal, Javier Diaz, Diana Eridalas, Jon Anthony Goerana,
4 Armando Rodriguez, Rolland Flores, Jeffrey Cedillo, Michael
5 Gonzalez, Angela Pokerova, Christina Rodriguez, Daniel Ozuma,
6 Joe Cortez. And we also contacted an individual by the name
7 of Warren Craig, who we determined through interviewing of him
8 had no relation to any of these individuals and was not
9 connected to assisting either Mr. Cardenas, Cortez, or Valdez
10 in the sale of these gold coins.

11 Q. Did your investigation reveal any connection whatsoever
12 between any of those named individuals as well as the three
13 young men who testified about breaking into the storage unit
14 and stealing the coins? Any connection whatsoever between any
15 of those individuals and the defendant, Mr. Karr?

16 A. No, it did not.

17 Q. Between any of those individuals and Mr. David Waters?

18 A. No, it did not.

19 Q. Or between those individuals and Mr. Chico Osborne, or
20 Gerald Osborne?

21 A. No, it did not.

22 Q. Or Patti Jo Steffens?

23 A. No, it didn't.

24 Q. Or Danny Fry?

25 A. No, it did not.

Cowling - Direct

1 Q. Or any other individual involved in this investigation as
2 a suspect?

3 A. No.

4 Q. Now, there was some testimony yesterday about a second
5 piece of angle iron that had been removed from an adjacent
6 storage unit to adjacent 53. Do you recall that testimony?

7 A. Yes, I do.

8 Q. And the chemist from DPS experienced some difficulty in
9 explaining that. Could you tell the jury, if you know, where
10 that second piece of angle iron came from?

11 A. The second piece of angle iron that DPS conducted the
12 search and submitted it to their own laboratory came from Unit
13 53, a unit that is adjacent to storage Unit 52.

14 Q. And did DPS take that action at the request of you or
15 Agent Martin?

16 A. Yes, they did.

17 Q. And can you tell us why it was decided to test that second
18 piece of angle iron?

19 A. We thought that if -- due to the fact that the units are
20 connected by those walls and that there's angle iron on
21 opposite walls that we thought that there may be some seepage
22 from one unit to the next.

23 Q. And so that second piece of angle iron from the adjoining
24 unit was tested and the test was negative; is that correct?

25 A. That is correct.

Cowling - Direct

1 Q. Now, for the record, could you please tell us who Richard
2 Simerly is, the man who submitted the angle iron, the first
3 piece of angle iron to the DPS laboratory?

4 A. Richard Simerly is an agent here, in Austin, who I work
5 with, who, at my request, took the angle iron from Unit 52 out
6 of our evidence collection and transported it to the
7 Department of Public Safety for me.

8 Q. And he is an agent of what organization, ma'am?

9 A. The Federal Bureau of Investigation.

10 Q. Okay. Now, there's been some testimony about a blood
11 sample being found in one of the vans rented by Mr. Karr. I
12 believe it's been identified as the third van, correct?

13 A. That is correct.

14 Q. And there's been other testimony that the DNA of that
15 blood sample did not match that of Mr. Fry; is that correct?

16 A. That is correct.

17 Q. To your knowledge, is other testing currently in progress
18 to determine any other possible sources of the DNA?

19 MR. T. MILLS: Excuse me. I object to that as being
20 irrelevant unless there's some reason to believe that it's
21 going to be finished in time for this jury to consider it.

22 MR. CARRUTH: Well, there's testimony in the record, I
23 believe, to that effect, your Honor. I'm simply trying to
24 clarify it.

25 THE COURT: Well, it's not relevant to any issue

Cowling - Direct

1 that's going to be determined by this jury.

2 Q. (BY MR. CARRUTH) Okay. Now, with regard to the photograph
3 of Mr. Gary Karr that's in evidence -- Agent Cowling, I'm
4 showing you what's been previously marked and produced as
5 Government Exhibit 11-2. Do you recognize that as a
6 photograph of Mr. Gary Karr, the defendant in this case?

7 A. Yes, I do.

8 Q. And can you tell us, if you know, the source of that
9 photograph?

10 A. This photograph is a blowup of Mr. Karr's Florida driver's
11 license.

12 Q. And I now show you what's been marked for identification
13 as Government Exhibit 86-3, and ask you if you recognize that
14 Florida driver's license of Mr. Karr?

15 A. Yes, I do.

16 Q. And does that photograph appear to be the same photograph
17 as has been blown up in Government Exhibit W11-2?

18 A. Yes, it is.

19 Q. We would offer W86-3.

20 MR. T. MILLS: I don't have any objection to the
21 introduction of this document because what's on the back, it
22 appears that it's not the original driver's license which I
23 thought that it was identified as.

24 THE COURT: It's received.

25 MR. T. MILLS: Whatever it is, it's a copy. I don't

Cowling - Direct

1 mind.

2 Q. (BY MR. CARRUTH) It is what you received from the state of
3 Florida, correct?

4 A. It is a copy of Mr. Karr's Florida driver's license that
5 the FBI --

6 Q. Can you tell me when this license was issued to Mr. Karr
7 by Florida?

8 A. The date that it has issued is 7-13, 1995.

9 Q. And so there's been some discussion throughout the trial
10 regarding Mr. Karr's appearance and how he looks now versus
11 how he looked in 1995. And you can testify that these
12 photographs were taken in 1995, when he renewed his -- or when
13 he obtained a Florida driver's license?

14 A. That is correct.

15 Q. And can you look at those photographs and look at Mr.
16 Karr, as he sits in the courtroom today, and tell me whether
17 or not his appearance has been altered or changed? Does he
18 appear to be the same as he appears in that photograph?

19 A. His appearance is different.

20 Q. Now, Agent Cowling, there's been some talk about some
21 Rolex watches, and we've heard evidence that March 24th of
22 1999 was a big day in this investigation, was it not?

23 A. Yes, it was.

24 Q. On this day, Mr. Waters' premises was searched by search
25 warrant?

Cowling - Direct

1 MR. T. MILLS: Excuse me.

2 Q. (BY MR. CARRUTH) Tell me what happened on that day.

3 A. On March 24th, there was a series of events that occurred
4 simultaneously with agents here in Austin, Texas, and agents
5 in Detroit, and myself, and agent in Illinois. Initially,
6 beginning of the morning, myself and an agent contacted Sidney
7 Karr, the sister of Mr. Karr, attempted to speak to her about
8 a Rolex watch, were asked to leave her residence immediately
9 or within about five minutes.

10 At that point in time, I contacted agents in Detroit,
11 told them that I had made -- I had made contact with Ms. Karr,
12 that she was not going to provide us with the watch, and
13 agents at that point contacted Mr. Karr when they were in --
14 inside with Mr. Karr and had -- were aware of where he was, a
15 telephone call was made back to Austin, Texas, at which time
16 the search warrant at Mr. Waters' residence was executed.

17 Q. Okay. And in addition to the officers visiting with Mr.
18 Waters and Mr. Karr and Ms. Sidney Karr on that date, were
19 there any other offices elsewhere in connection with this
20 investigation in the Dallas/Fort Worth area?

21 A. Yes, there were officers went to the residence of Mr.
22 Gerald Osborne.

23 Q. Also known as Chico?

24 A. That is correct.

25 Q. Now, you indicated that Ms. Karr asked you to leave her

Cowling - Direct

1 apartment?

2 A. Yes, she did.

3 Q. And where exactly does she reside?

4 A. She resides in a suburb, just outside of Chicago.

5 Q. Is that Oak Park, Illinois?

6 A. That is correct.

7 Q. And had Mr. Karr ever indicated to any of the officers in
8 this investigation that he had provided one of the Rolex
9 watches received from Mr. David Waters to his sister?

10 A. At the point that we entered his residence -- we entered
11 her residence, he had not yet told that to the agents. I had
12 heard that from another -- from, actually, two other sources
13 prior to Mr. Karr giving the statement.

14 Q. Okay. And when you initially confronted Sidney Karr --
15 and I believe her full name is Gayle Sidney Karr, is it not?

16 A. That is correct.

17 Q. Did she tell you she had the watch?

18 A. No.

19 MR. T. MILLS: Excuse me. Object to statements by
20 Sidney Karr as being hearsay.

21 THE COURT: Sustain the objection.

22 Q. (BY MR. CARRUTH) Well, in an effort to locate the watch,
23 what action, if any, did you take that involved the United
24 States District Court for the Eastern Division of the Northern
25 District of Illinois?

Cowling - Direct

1 A. After asking Ms. Karr for the watch, explained to her that
2 we were just attempting to retrieve the property and leaving
3 the residence, we went back and we obtained a search warrant
4 for her residence.

5 Q. And did you execute that search warrant of Ms. Karr's
6 residence?

7 A. Yes, we did that day.

8 Q. Did you locate the Rolex watch at her address?

9 A. No, we did not.

10 Q. Did you locate any evidence that she had had it in her
11 possession?

12 A. Yes, we did.

13 Q. Show you what's been marked as Government Exhibit W61-1.
14 Do you recognize that as having come out of this search
15 warrant?

16 A. Yes, I did.

17 Q. W61-2?

18 A. Yes.

19 Q. W61-3?

20 A. Yes.

21 Q. Is it your testimony that all those items were seized from
22 the residence of Gayle Sidney Karr when you executed your
23 search warrant?

24 A. Yes, they were.

25 Q. We would offer at this time Government's Exhibit W61-1, 2

Cowling - Direct

1 and 3, your Honor.

2 MR. T. MILLS: No objection.

3 THE COURT: Received.

4 Q. (BY MR. CARRUTH) Now that those exhibits are in evidence,
5 would you please hold them up, one by one, and tell the jury
6 what they are?

7 A. This is the will of --

8 Q. Please identify it by number.

9 A. Excuse me. W61-1 is the will of Gayle Sidney Karr.

10 Q. And what, if anything, is significant about the will of
11 Gayle Sidney Karr?

12 A. May I open it?

13 Q. Please.

14 A. What's significant about her Last Will and Testament is
15 that on the very first page, the second article, she says that
16 -- it states, "I give, devise and bequeath my Rolex watch,"
17 and this is to one of her children.

18 Q. All right. Please go on to the next exhibit.

19 A. W61-2 is a receipt from James and Williams Jewelers in
20 Berwyn, Illinois, and it is a \$20 receipt for appraisal --
21 excuse me -- appraisal of a lady's Rolex.

22 Q. And when is that receipt dated, please, ma'am?

23 A. 2-17, 1998.

24 Q. Okay. What is the next exhibit, please?

25 A. W61-3 is a picture of Ms. Karr. It has a date stamp on it

Cowling - Cross

1 of 8-27, 1996. She's wearing a two-tone gold and silver
2 watch.

3 Q. Okay. Now, did you give Ms. Karr a receipt for these
4 items of evidence that you took from her apartment on that
5 occasion?

6 A. Yes, we did.

7 Q. And did she sign that receipt?

8 A. I'd have to look at the receipt. I don't believe she did,
9 but I would have to look at it again.

10 Q. Generally speaking, did you find Ms. Karr to be
11 cooperative or uncooperative?

12 A. She was extremely uncooperative.

13 Q. Thank you. Pass the witness.

14 CROSS-EXAMINATION

15 BY MR. T. MILLS:

16 Q. Did Ms. Karr do things of an uncooperative nature, like
17 insist on exercising her constitutional right to not have
18 agents search her house without a search warrant?

19 A. She did express the desire for us to leave her residence,
20 yes.

21 Q. What was the date of the -- when was the will that named
22 the -- a Rolex watch executed?

23 A. It says the 14th today of January, 1997.

24 Q. And does it, by any chance, describe the Rolex in terms of
25 a serial number or any other kind of identification?

Cowling - Cross

1 A. No, it does not.

2 Q. Referring you to Government's Exhibit W11-5, parenthesis
3 4, this photograph by the pool. Do you believe, based on your
4 investigation, that that was taken at the pool where Apartment
5 219 was located?

6 A. Yes, I do.

7 Q. And would that have been where Patti and David lived?

8 A. That's correct.

9 Q. And do you recognize the female in this photograph?

10 A. That's Patti Steffens.

11 Q. And do you recognize the man seated next to her?

12 A. She has told me that it's Gary Karr.

13 Q. All right. And this was dated at the bottom 8-25-95?

14 A. That's correct.

15 Q. So what his hair looked like during the -- this aspect --
16 this time period of the alleged conspiracy would -- don't you
17 agree that it looks like this picture? I mean, this is a
18 picture of him?

19 A. Correct.

20 Q. All right. And will you agree that that -- that you would
21 not describe his hair in this picture as long, sandy-brown
22 hair?

23 A. Not in that picture.

24 Q. Well, do you have another picture of him in August or
25 September of '95?

Cowling - Cross

1 A. No, I do not.

2 Q. I wanted to ask you a question about the angle iron.

3 A. It's back there by those boxes.

4 Q. It's my understanding that this angle iron came out of
5 space No. 52 -- or it was actually F0052; isn't that right?

6 A. I think it's F052.

7 Q. All right. And the way Mr. Carruth or Mr. Mills explained
8 it, I think earlier, it was on the -- if this was the door, it
9 was on this side where the yellow line is of 52?

10 A. That is correct.

11 Q. All right. It was on the inside of 52, and there was also
12 one on the inside of 53, next-door to it, that got examined?

13 A. That's correct.

14 Q. I would offer just as a demonstrative exhibit to show
15 these relationships Defendant's Exhibit No. 40.

16 MR. CARRUTH: No objection, your Honor.

17 Q. (BY MR. T. MILLS) Now, if you believed that there was
18 blood that might have seeped into the angle iron in 52, then
19 you also decided, just to be on the safe side, to see if blood
20 could have seeped from 52 under the dividing line, the wall
21 between 52 and 53, to see if this other angle iron might have
22 some blood?

23 A. That's correct.

24 Q. All right. And doesn't that mean that blood that was
25 found in 52 could have seeped from 51 under the wall and

Cowling - Cross

1 gotten into the angle iron in 52?

2 A. It's my understanding that the angle iron -- that the way
3 the angle iron is, it's up against the wall. It would have
4 had to seep under and back up.

5 Q. Exactly how it would have had to have seeped in 53?

6 A. Not if it had seeped just directly under and was on the
7 base of the angle iron.

8 Q. But, in fact, you found no blood or anything suspicious in
9 53?

10 A. No, we did not.

11 Q. And when you decided to find out if there had been any
12 bleach on the angle iron or on the screws, it was analyzed
13 scientifically, right?

14 A. That's correct.

15 Q. All right. And does Defense Exhibit 39 reflect evidence
16 that you submitted or requested analysis and results?

17 A. Yes, it does.

18 Q. We would offer Defendant's Exhibit No. 39.

19 MR. CARRUTH: No objection.

20 THE COURT: Received.

21 Q. (BY MR. T. MILLS) Of the evidence submitted, the angle
22 iron from 52 was submitted -- no. Excuse me. On this
23 particular document, Defendant's Exhibit No. 39, the angle
24 iron from the wall adjacent to Room 52 was analyzed for the
25 material that is bleach, correct?

Cowling - Cross

1 A. That's correct.

2 Q. And the screws from the wall adjacent to 52, which would
3 be 53, were submitted for analysis?

4 A. That is correct.

5 Q. Was the angle iron from 52 -- was it analyzed and found to
6 not have bleach but that might be because it was wiped down?

7 A. That's my understanding.

8 Q. Okay. Were the screws from the angle iron in 52 submitted
9 for analysis?

10 A. No, they were not.

11 Q. Were they saved?

12 A. They should be in evidence, yes.

13 Q. Have they ever been analyzed for bleach?

14 A. No, they have not.

15 Q. Is this item which appears to me to be a nail, is that
16 what is called in this context a screw?

17 A. Those are nails, and there were screws and bolts within
18 the storage unit. And I believe that the screws and bolts may
19 have actually come off of some metal that was going up -- that
20 was perpendicular to the floor.

21 Q. All right. Well, do you know if any nails from 52 were
22 analyzed for bleach?

23 A. I don't believe they were.

24 Q. That's all the questions that I have.

25

Cowling - Redirect

RE-DIRECT EXAMINATION

BY MR. CARRUTH:

Q. Agent Cowling, just to clear up the chain of custody on this piece of angle iron, marked W64-6, were you the individual responsible for receiving this from the Dallas Sheriff's Department after it had been analyzed by the lab in Dallas and transmitting it to the FBI laboratory in Washington D.C?

A. I personally picked up the evidence. I picked up this angle iron in Dallas County. I transported it back to Austin, at which time it was put into our evidence, given to our evidence custodian and logged as evidence, and then, it was sent via Fed Ex to Washington, D.C.

Q. And you received it back after they analyzed it?

A. That is correct.

Q. Your Honor, I believe it's in evidence, but if not, I would re-offer W64-6 for the record.

MR. T. MILLS: I don't have any objection. I was thinking that it was in evidence.

THE COURT: I think it is. It's in evidence.

MR. CARRUTH: Thank you, your Honor.

Q. (BY MR. CARRUTH) Agent Cowling, Mr. Karr's attorney asked you, again, about the hair color of Mr. Karr as it appeared in a pool photograph and his driver's license. During the course of this investigation, have you received any evidence

Martin - Direct

1 regarding Mr. Karr either dying his hair or, otherwise,
2 seeking to change his appearance?

3 A. I have.

4 MR. T. MILLS: Object to hearsay.

5 THE COURT: I sustain the objection to the question
6 asked. You may rephrase your question.

7 Q. (BY MR. CARRUTH) Just simply call for a "Yes" or "No"
8 answer without what -- I'll pass the witness.

9 MR. T. MILLS: No more questions.

10 MR. CARRUTH: Nothing further. May the witness be
11 excused?

12 THE COURT: Yes, sir.

13 MR. CARRUTH: At this time, we would call Ed Martin to
14 the stand, your Honor. Be sworn, please, sir.

15 (Witness was sworn.)

16 THE COURT: Have a seat, please. Tell us, please,
17 sir, your full name and spell your last.

18 THE WITNESS: My name is Edmond, E-D-M-O-N-D, Martin,
19 M-A-R-T-I-N.

20 EDMOND MARTIN, called by the Government, duly sworn.

21 DIRECT EXAMINATION

22 BY MR. CARRUTH:

23 Q. Mr. Martin, please tell the members of the jury where you
24 live and how you're currently employed.

25 A. I live in Austin Texas. I've been here 25 years. And I'm

Martin - Direct

1 employed with the Internal Revenue Service, Criminal
2 Investigation Division.

3 Q. And how long have you been employed by the Internal
4 Revenue Service?

5 A. Twent-four years, sir.

6 Q. Would you please detail for the members of the jury your
7 educational background, training and experience in the field
8 of accounting and fraud investigations?

9 A. Yes, sir. My degree is in accounting. I started with the
10 Internal Revenue Service in 1969. I was with them 15 years.
11 I left for six years, went to work for the State Securities
12 Board. After that, I worked -- I worked for the Securities
13 Board two and a half years. I then went into private practice
14 as an accountant and a private investigator for three and a
15 half years.

16 And in 1991, I went back to work for the Internal
17 Revenue Service, Criminal Investigation Division.

18 Q. And can you tell the -- have you ever had any specialized
19 training? Or are you a member of any professional
20 associations that deal with fraud investigations or tax
21 investigations?

22 A. Yes, sir. I'm a -- almost a charter member of the
23 Certified Fraud Examiners and was past president of the First
24 Chapter of the Certified Fraud Examiners.

25 Q. And in your many years with the government, do you have

Martin - Direct

1 occasion to participate in the training or teaching of other
2 state and federal law enforcement agents in conducting
3 financial investigations?

4 A. Yes, sir, I do. I've trained as -- I've taught both at
5 Glencoe, which is a federal law enforcement training center in
6 Glencoe, Georgia, and in basic criminal investigation, basic
7 special agent school, and I've also taught in advanced school.

8 Q. Can you briefly tell the members of the jury how a special
9 agent of the Internal Revenue Service became involved in what
10 essentially turned out to be a crime of violence?

11 A. Yes, sir. Initially, it was reported that the O'Hairs
12 were missing and that there was a Form 990, which was filed by
13 the United Secularists, which reported missing funds of about
14 \$600,000.

15 Q. And a Form 990 is an Internal Revenue tax form?

16 A. Yes, sir, it's a nonprofit organization form.

17 Q. And I believe that form is in evidence, but could you just
18 briefly relate what it alleged that caused you to become
19 involved in your official capacity, if it did?

20 A. Yes, sir. There was a statement attached to the return
21 that indicated that it was reporting that Jon Murray O'Hair --
22 Jon Murray, I'm sorry, had possession of the \$600,000, and at
23 this point in time, he was missing and they didn't know what
24 the accounting was for that.

25 Q. And you were assigned in that particular investigation?

Martin - Direct

1 A. Yes, sir, I initiated that investigation.

2 Q. And what steps, if any, did you initially take to commence
3 your investigation of this matter?

4 A. Initially, my investigation was a money laundering
5 investigation, not an income tax investigation. And what I
6 endeavored to do was to contact your office to obtain grand
7 jury subpoenas for obtaining the documents which would prove
8 the transfer of the \$600,000.

9 Q. And do you recall approximately what month and year your
10 investigation began?

11 A. I initiated my investigation in February of 1997.

12 Q. Okay. And were you successful in locating any assets of
13 the O'Hairs after they disappeared?

14 A. Yes, I was able to -- I ultimately found and traced the
15 \$600,000 coming from a bank in -- actually, it's a Guardian
16 Trust in New Zealand, and subsequent to that, in about
17 December of 1997, the U.S. Attorney's Office received a phone
18 call from an individual named Corey Ticknor, or Mr. Ticknor's
19 attorney, who advised that he was in possession of \$100,000
20 worth of gold coins.

21 Q. And did you subsequently obtain those gold coins from Mr.
22 Ticknor?

23 A. Yes, sir, I did.

24 Q. And what disposition, if any, did you make of these gold
25 coins?

Martin - Direct

1 A. He initially received the gold coins and held them, and
2 then, in a civil matter, they filed proof of claim.

3 Q. They being who, sir?

4 A. The United Secularists of America. Mr. Richard Hogan is
5 the person I dealt with, and his attorney, Mr. Ron Howdysshell.

6 Q. Okay.

7 A. And they proceeded to follow the procedures that we have
8 established for seized assets. And because these funds, from
9 what I could determine, belonged to the United Secularists of
10 America, we were -- a determination was made that those funds
11 should be returned.

12 Q. Can you tell us, if you know, sir, why the IRS didn't go
13 after those funds to satisfy the tax liabilities of the
14 O'Hairs?

15 A. Well, their collection division, as my understanding, was
16 attempting to find the gold, but I found it first. And at
17 this point in time, I don't -- and even at that time, I didn't
18 believe that the United States Government, the Internal
19 Revenue Service is entitled to those coins. I felt that they
20 belonged to United Secularists.

21 Q. Okay. Was there also an occasion during this
22 investigation when the Greystone home of the O'Hairs was
23 seized by an arm of the Internal Revenue Service?

24 A. Yes, sir, the collection division seized a home and the
25 contents.

Martin - Direct

1 Q. Now, so that the jury may know the collection division,
2 the revenue officers are different. Their function and duties
3 are different than yours as a special agent in the Criminal
4 Investigation Division, correct?

5 A. Yes, sir. Their function is basically the collection of
6 money.

7 Q. Could you briefly detail the responsibility of each arm of
8 the IRS?

9 A. Yes, sir. The collection division, first of all, the
10 examination division generally establish a tax liability,
11 establishes an assessment of the tax. That was being done,
12 apparently, and had been done. And it had been a decision
13 made that a notice was made. I think the O'Hairs had not
14 appeared or had not paid the tax. So the IRS then proceeded
15 against the major asset belonging to the estate.

16 They seized the residence and the contents of the
17 residence for the collection of tax initially. And in my
18 case, the Criminal Investigation Division, we investigate
19 criminal violations of the Internal Revenue laws in addition
20 to money laundering violation.

21 Q. And at what point or when did you become aware or
22 determined that this may be more than a money laundering
23 investigation?

24 A. In analyzing the information, my expertise is financial
25 investigation. So in analyzing the financial transaction and

Martin - Direct

1 following the money, I determined that it appeared that
2 between checks being issued and credit card advances that in
3 the month of -- the last few days of August and in the month
4 of September, approximately \$86 to \$90,000 was withdrawn along
5 with the sale of a vehicle and such.

6 So there was an accumulation of cash, and it was kind
7 of strange in characteristics to what I was able to see in the
8 accounts of the O'Hairs.

9 Q. And was that in addition to the \$600,000 wire transfer
10 that was converted into gold coins?

11 A. Yes, sir, that was in addition to.

12 Q. And during your investigation, did you attempt to contact
13 the leaders of the American Atheist Organization in attempt to
14 determine where the O'Hairs could be found?

15 A. Yes, sir, one of my first contacts was Ellen Johnson.

16 Q. Okay. And did you also contact Interpol, or any other
17 international law enforcement agency, in an effort to
18 institute a search or to see if they had any information
19 regarding the missing O'Hair family members?

20 A. Yes, sir, I contacted Interpol -- we have a special agent
21 that works for Interpol -- and requested that they look for
22 them in New Zealand, Canada and Mexico.

23 Q. And what were the results of that inquiry or search?

24 A. The inquiry for -- I received a negative response from New
25 Zealand and, also, Mexico. I did not receive anything from

Martin - Direct

1 Canada. And in addition to that, I think I also submitted a
2 subsequent request to -- for Iceland and Greenland. I
3 received some information and had not received any kind of
4 response on those.

5 Q. During the course of your investigation, did you also
6 become aware of a bank account at the Frost National Bank here
7 in Austin, Texas?

8 A. Yes, sir, there was an account in the name of Madalyn
9 Murray O'Hair, and I think Jon and Robin had signature
10 authority on those accounts -- on that account.

11 Q. And did you determine whether any funds were in that
12 account?

13 A. Yes, sir, I determined that the account had -- it was a
14 repository. The money was just flowing into the account, no
15 money was being drawn from the account.

16 Q. And did you identify the source of the funds that was, you
17 say, flowing into the account?

18 A. Yes, sir, I determined that the account was receiving
19 funds from the Veterans Administration and Social Security
20 Administration.

21 Q. And did you determine whether or not those funds had been
22 touched or whether there had been any withdrawals from that
23 account since the O'Hairs disappeared in the fall of 1995?

24 A. There was no -- there were no withdrawals from that
25 account, sir.

Martin - Direct

1 Q. Okay. Can you tell us, briefly, how Mr. Karr was
2 developed as a suspect in this case?

3 A. Initially, when Ms. Cowling and I began working together
4 on the investigation, we went to the Warren Inn --

5 MS. WILLIAMS: I'm sorry. I'm going to object to
6 this. It was my understanding that Mr. Martin was being
7 called as a summary witness of voluminous financial records.
8 This testimony would be outside the scope of that sort of
9 summary witness under the Rules of Evidence.

10 THE COURT: The question is, would you tell me how he
11 became a suspect. I'll overrule the objection. You may
12 answer.

13 A. When Ms. Cowling and I went down to the Warren Inn, we
14 searched their records. They had boxes and boxes of records.
15 We searched through their records, and we found the needle in
16 a haystack. It was the record that showed that Gary Karr and
17 David Waters had leased an apartment. We didn't find anything
18 for the O'Hairs at that point.

19 So there was something there that triggered the -- the
20 involvement of Mr. Karr.

21 Q. And what was it that led you to the Warren Inn in San
22 Antonio?

23 A. Previously, we had information that there was -- I mean,
24 reading in a newspaper and other information that the Warren
25 Inn was where the O'Hairs might be.

Martin - Direct

1 Q. Okay. Now, once the investigation began to focus on Mr.
2 Karr, did there come a time when you and other officers
3 traveled to Novey, Wald Lake, Michigan to contact Mr. Karr
4 regarding this case?

5 A. Yes, sir, we did.

6 Q. And when was that, sir?

7 A. That was March the 24th, 1999.

8 Q. And was Mr. Karr generally cooperative?

9 A. When -- yes, sir, he was.

10 Q. And did he agree to answer your questions regarding the
11 investigation?

12 A. He was a little apprehensive at first, but yes, he
13 ultimately did.

14 Q. And during the course of the investigation, was Mr. Karr
15 advised of his constitutional rights?

16 A. Yes, sir, he was.

17 Q. Who did that?

18 A. I did. I advised him of his rights according to our -- we
19 have a form that we -- standard form that we read from.

20 Q. Okay. And did he agree to waive those rights and discuss
21 his knowledge of this case with you?

22 A. Yes, sir, he did.

23 Q. And as a result of that interrogation or questioning of
24 Mr. Karr, did he ultimately execute a written statement?

25 A. Yes, sir, he did.

Martin - Direct

1 Q. I believe the first statement he gave is approximately
2 eight pages in length; is that correct?

3 A. Yes, sir, it is.

4 Q. I'm going to show you what's been marked for
5 identification as Government Exhibit 100-2, and ask you to
6 examine all pages of that exhibit and tell us if you're able
7 to identify it.

8 A. Yes, sir, this is the statement that I prepared and Mr.
9 Karr signed in the presence of a number of agents.

10 Q. Now, was that statement typed up in final form the first
11 time, or were there multiple drafts that were gone over and
12 corrected?

13 A. There were multiple drafts.

14 Q. And when it was put in final form, did Mr. Karr initial
15 each page and sign it on the last page?

16 A. Yes, sir, he did.

17 Q. And did you sign it?

18 A. Yes, sir, my name is right below Mr. Karr's name.

19 Q. And did other law enforcement officers in attendance sign
20 it as witnesses?

21 A. Yes, Robert Bjorklund and Sammy Houston, William O'Leary
22 and Mr. Newland.

23 Q. At this time, your Honor, we'd offer Government Exhibit
24 W100-2.

25 MS. WILLIAMS: Your Honor, we renew our previous

Martin - Direct

1 objections to portions of the statement.

2 THE COURT: Members of the jury, I'm going to give you
3 a ten-minute break.

4 (Jury not present.)

5 THE COURT: Counsel, tell me what portions.

6 MR. T. MILLS: I have put a yellow marker on this.
7 It's our position that the length of the sentence and the
8 length of time that's referred to is basically letting the
9 jury know indirectly that there was some kind of previous
10 extremely serious crime, which is not provable by direct
11 evidence. And we think that it's much more prejudicial than
12 relevant to what was done in this case.

13 THE COURT: Counsel, on the exhibit, page 5, is that a
14 part of the --

15 MR. CARRUTH: That was Mr. Karr's marking it out, your
16 Honor. He apparently objected to something that was in the
17 statement and -- is that correct, Agent Martin?

18 THE WITNESS: Yes, sir, it is.

19 THE COURT: So the two supplemental statements, what
20 you are objecting to, is the phrase, quote, I have been in
21 state prison for 20 years and nine months, end quote, and,
22 quote, David Waters was released from prison four or five
23 years prior to my release?

24 MR. T. MILLS: Yes, sir.

25 THE COURT: What's the government's position?

Martin - Direct

1 MR. CARRUTH: Your Honor, we think the evidence is
2 clear that Mr. Karr has a history of incarceration. I don't
3 know that the length of that incarceration would necessarily
4 be any more prejudicial than the fact that he has been
5 incarcerated. It is his voluntary statement. He deleted one
6 part that he objected to. It is a true statement.

7 We also believe that at the conclusion of this case,
8 we may ask the Court to admit that entire prior conviction for
9 armed robbery and aggravated kidnapping under 404B, since his
10 intent has been placed in issue by his counsel in
11 cross-examining the government's witnesses. And should that
12 occur and the conviction were to come in, it would show he
13 received a sentence, I believe, of 30 to 50 years for the
14 rape, kidnapping and robbery involving the daughter of a
15 judge.

16 THE COURT: Are you through with the speeches?

17 MR. CARRUTH: Well, the jury's out, your Honor.

18 THE COURT: Are you just practicing? I will redact
19 the phrase in the first sentence, for 20 years and nine
20 months. That will be redacted, so it will read: I have been
21 in state prison, redacted. It is material when David Waters
22 was released. I will not redact that. And I'll ask Mr.
23 Carruth to accommodate that.

24 MR. CARRUTH: And in view of that court's ruling, your
25 Honor, I told Mr. Mills during the noon recess if the Court

Martin - Direct

1 ruled in that manner, we would also agree to redact the
2 15-page statement of the inmate, Jason Cross, wherein Mr. Karr
3 makes that same statement to him. So that it's out for all
4 purposes.

5 THE COURT: I think one piece of pie is plenty, Mr.
6 Carruth.

7 MR. CARRUTH: Thank you.

8 THE COURT: If you will be sure that those two
9 exhibits are redacted. We'll take ten minutes.

10 (Recess.)

11 MR. CARRUTH: Your Honor, during the recess, we've
12 redacted both documents with the Court's instruction --
13 pursuant to the Court's instruction. Counsel are satisfied.

14 THE COURT: Then, I will announce that W100-2 is in
15 evidence. All right. Bring the jury in.

16 (Jury present.)

17 THE COURT: Members of the jury, again, I apologize
18 for the delay. One of my opinions of one of our great judges,
19 gentleman out in -- lives in Odessa, named Lucius Bunton, been
20 a judge little over 20 years, yesterday for health reasons, he
21 decided that he won't be coming to the courtroom anymore and
22 sent us all e-mails -- we get e-mails nowadays -- and that's
23 caused a lot of reorganization of the judges in the Circuit as
24 it is.

25 And that's what I've been doing, most of today, since

Martin - Direct

1 early this morning is talking with other judges and trying to
2 figure out how we're going to handle those 700 cases that he
3 has. So we're working on that. So it's my fault. Nobody
4 else's. You may proceed.

5 MR. CARRUTH: Your Honor, at this time, we'd offer
6 Government Exhibit W100-2.

7 THE COURT: It is received.

8 MR. CARRUTH: May the government publish that to the
9 jury by having Agent Martin read it into the record, your
10 Honor?

11 THE COURT: Read the entire?

12 MR. CARRUTH: It would be quicker, I think, than
13 having the jurors each individually have to read it.

14 THE COURT: All right. It will be available to them
15 on deliberation.

16 MR. CARRUTH: All right, sir.

17 Q. (BY MR. CARRUTH) Subsequent to that statement by taken --
18 by the way, in that statement that's just been admitted, did
19 Mr. Karr make any admissions to you regarding a trip from New
20 Port Richey, Florida, down to Naples, Florida to visit Bob
21 Fry, Danny Fry's brother?

22 A. Yes, sir, he did.

23 Q. Can you briefly tell us what he told you?

24 A. He said that he and David Waters went in his jeep down to
25 Naples, and that they parked a block away or so from the

Martin - Direct

1 house, and Mr. Waters, on the way down, explained to him that
2 Danny Fry's brother was causing trouble and was calling him
3 and that he could create problems for the O'Hairs and that he
4 could not afford that at this time.

5 And that Danny had left and did not know where he was
6 is basically what he said. And then, approximately -- for
7 approximately 35 minutes, Mr. Waters and Mr. Fry -- Mr. Fry
8 was present -- I'm sorry. Mr. Karr, confronted Mr. Fry about
9 a letter that Danny Fry had written. And David told Mr. Fry
10 -- this is what Mr. -- I mean, Mr. Karr told me that David
11 told Bob Fry that Danny was involved with big people and that
12 the letter and his continued phone calls could cause problems,
13 and the people would be unhappy if he did not come back with
14 the letter.

15 Mr. Fry told him that the letter had been destroyed,
16 and they ultimately left and did not -- they left the house.
17 In the process, too, Mr. Karr advised me that Mr. Waters had
18 brought a weapon with him. My understanding, it was a
19 Nine-Millimeter Browning that he brought with him --

20 MS. WILLIAMS: Your Honor, I'm going to object to
21 Agent Martin adding to what's actually in the statement.

22 THE COURT: Well, he has specifically been asked to
23 read that portion of the statement when counsel, of course, is
24 not restricted to that.

25 MR. CARRUTH: Thank you.

Martin - Direct

1 Q. (BY MR. CARRUTH) Please continue. When you say weapon in
2 one place and other place, it says Nine-Millimeter on the last
3 paragraph, does it not?

4 A. Yes, sir.

5 Q. Okay.

6 A. Well, he took the Nine-Millimeter with him, but he did not
7 use it. Mr. Karr told me that he had told David Waters that
8 if he planned on killing the man, he was going to walk. He
9 was going to leave him.

10 Q. Okay. Now, subsequent to that statement being taken on
11 March the 24th, did you return the next day and take a second
12 shorter statement from Mr. Karr?

13 A. Yes, sir, we did.

14 Q. Show you what's been marked for identification as W100-1,
15 and ask if you can identify that?

16 A. Yes, sir, I could identify that. That was the second
17 statement -- this is the second statement that we took from
18 Mr. Karr.

19 Q. And is this a supplement to the first statement?

20 A. It's an addition, yes.

21 Q. And we would offer W100-1 at this time.

22 MS. WILLIAMS: No objection.

23 THE COURT: It's received.

24 Q. (BY MR. CARRUTH) And in that statement, did Mr. Karr just
25 put in a few details that had been omitted from the earlier

Martin - Direct

1 statement?

2 A. Yes, sir, that's basically what it is.

3 Q. And again, he -- after being advised of his rights, did he
4 initial it on both pages and sign it in your presence and the
5 presence of other witnesses?

6 A. Yes, sir, he did.

7 Q. Now, also, on that second occasion, did Mr. Karr draw you
8 a map?

9 A. Yes, in talking to Mr. Karr, we had learned that -- I had
10 learned that he had information about, potentially, location
11 of the bodies.

12 Q. Okay. I show you what's been marked for identification as
13 Government Exhibit W100-3.

14 A. Yes, sir.

15 Q. Do you recognize that exhibit as being a map drawn by you
16 -- for you by Mr. Karr on the occasion in question?

17 A. I think that in following the advice of Mr. -- the
18 instruction of Mr. Karr, drew this map out according to what
19 he described to me.

20 Q. He provided direction?

21 A. Yes, sir.

22 Q. We'd offer Government Exhibit W100-3.

23 MS. WILLIAMS: May I take the witness on voir dire
24 briefly?

25 THE COURT: You may.

Martin - Voir Dire

VOIR DIRE EXAMINATION

1
2 BY MS. WILLIAMS:

3 Q. Is it your testimony the handwriting contained on
4 Government 100-3 is that of Mr. Karr?

5 A. No, ma'am, it is mine.

6 Q. All right. And it's your testimony that you drew this
7 according to what Mr. Karr told you?

8 A. Yes.

9 Q. Do Mr. Karr's initials appear on this anywhere indicating
10 his adoption of your drawing?

11 A. I don't believe they are.

12 Q. All right. Then, I object, your Honor.

13 MR. CARRUTH: May we do a sidebar, your Honor?

14 THE COURT: Yes.

15 (At the Bench, on the record.)

16 MR. CARRUTH: They just told me during the break they
17 had no objection to it, otherwise, I'm going to offer it.

18 MS. WILLIAMS: Well, I didn't know when you asked me
19 that my client didn't write on that. I thought he did. I
20 thought all this time that Gary drew that map, and I didn't
21 know that he didn't.

22 MR. CARRUTH: Okay.

23 MS. WILLIAMS: So I apologize.

24 MR. CARRUTH: I'll withdraw. I never would have
25 offered if I --

Martin - Direct (Resumed)

1 THE COURT: Okay.

2 MR. CARRUTH: Your Honor, the government will withdraw
3 its tender of Government Exhibit 100-3.

4 THE COURT: All right.

5 DIRECT EXAMINATION (Resumed)

6 (BY MR. CARRUTH).

7 Q. Now, Mr. Martin, at the time Mr. Karr made these two
8 statements on successive days, did he say anything to you to
9 indicate that he was holding back any information in this
10 case?

11 A. Yes, sir, he told us when all agents were present that --
12 in the process of preparing this statement, I asked him if
13 there's anything more, he basically told me that -- or told us
14 that he learned that in prison, basically, that you don't tell
15 law enforcement everything the first time you meet with them.

16 Q. Okay. Mr. Martin, during the course of this
17 investigation, did you determine or obtain copies of the
18 telephone records of Mr. Karr during the time frame in
19 question?

20 A. Yes, sir, we did.

21 Q. I show you what's been marked as Government's Exhibit
22 W91-1, a certification from Ameritech regarding Mr. Karr's
23 phone records. Do you recognize that?

24 A. Yes, sir, these are the phone records that we subpoenaed.

25 Q. Thank you. At this time, we'd offer Government's Exhibit

Martin - Direct (Resumed)

1 W91-1.

2 MS. WILLIAMS: No objection.

3 THE COURT: Received.

4 Q. (BY MR. CARRUTH) Did you also, during the course of your
5 investigation, obtain similar phone records from Southwestern
6 Bell Telephone Company relating to Patti Jo Steffens and Mr.
7 Waters, who was residing with her at that time, as well as
8 Corey Ticknor, a jeweler in San Antonio, Texas?

9 A. Yes, sir, and this is the subscriber information that we
10 requested from the telephone company.

11 Q. We'd offer W10-1, sub 3.

12 MS. WILLIAMS: No objection.

13 THE COURT: Received.

14 Q. (BY MR. CARRUTH) Did you also obtain copies of telephone
15 records for the cellular phone of Jon G. Murray, marked
16 Government's Exhibit W30-1?

17 A. Yes, sir, we did obtain the cellular phone records as part
18 of the investigation, very important part of the
19 investigation.

20 Q. And we would offer Government Exhibit W30-1.

21 MS. WILLIAMS: No objection.

22 THE COURT: Received.

23 Q. (BY MR. CARRUTH) Did you also obtain -- let me show you
24 what's also been marked as Government's Exhibit 30-1, and see
25 if you can identify that for the record, please.

Martin - Direct (Resumed)

1 A. This is the MCI account for the Society of United
2 Secularists. Apparently, it was John Murray's credit card,
3 his MCI card.

4 Q. Thank you. We'd offer Government Exhibit 31-1.

5 MS. WILLIAMS: I'm sorry. MCI phone bill?

6 A. Phone records, yes.

7 MR. CARRUTH: Phone credit card records, yes.

8 MS. WILLIAMS: No objection.

9 THE COURT: Received.

10 Q. (BY MR. CARRUTH) I'll show you what's been marked W93-1,
11 phone calling card that you determined had been used by one of
12 the party principals in this case.

13 A. Yes, sir, this is from IIS. It's a phone card that was
14 sent to Mr. Waters.

15 Q. We'd offer Government Exhibit W93-1.

16 MS. WILLIAMS: No objection.

17 THE COURT: Received.

18 Q. (BY MR. CARRUTH) Show you, sir, what's been marked
19 Government's Exhibit W19-1 for identification, and W19-2. Do
20 you recognize those as credit card records?

21 A. Yes, sir, these are credit card records of Mr. Gary Karr,
22 19-1, and 19-2 is Jon Murray. And I believe they're Discover
23 cards. Yes, that's what they are.

24 MR. CARRUTH: We would offer at this time, your Honor,
25 Government's 19-1 and 2.

Martin - Direct (Resumed)

1 MS. WILLIAMS: No objection.

2 THE COURT: Received.

3 Q. (BY MR. CARRUTH) Show you what's been marked W19-3 for
4 identification, and tell us if you're able to identify that.

5 A. These are credit card records of Jon Murray. And,
6 apparently, the credit card company has changed the name from
7 a Karen McNutt, but the account has been -- maintained that
8 now. But these are credit card records of from, like, '93 to
9 '97 for Discover, also.

10 Q. We'd offer W19-3.

11 MS. WILLIAMS: Discover?

12 THE WITNESS: Yes, ma'am.

13 MS. WILLIAMS: No objection.

14 THE COURT: Received.

15 Q. (BY MR. CARRUTH) Show you what's been marked W46-1 for
16 identification. Do you recognize those records?

17 A. Yes, sir, 46-1 is Associates; it's a credit card, also.
18 And this is -- I believe it's of Jon Murray. I'm trying to
19 find the name. It's the account of Jon Murray, yes, sir.

20 Q. We would offer W46-1.

21 MS. WILLIAMS: No objection.

22 THE COURT: Received.

23 Q. (BY MR. CARRUTH) Show you now W42-1, ask you if you
24 recognize this document from Citibank?

25 A. Yes, sir. This is Citibank Universal Card Services, and

Martin - Direct (Resumed)

1 it's for the account of Jon Murray, one of his credit cards.

2 Q. We would offer Government Exhibit W42-1.

3 MS. WILLIAMS: No objection.

4 THE COURT: Received.

5 Q. (BY MR. CARRUTH) Show you now Government Exhibit 45-1.

6 A. This is Bank of America card, I believe, of Jon Murray and
7 his credit card records.

8 Q. Offer W45-1.

9 MS. WILLIAMS: No objection.

10 THE COURT: Received.

11 Q. (BY MR. CARRUTH) Show you W44-1, sir.

12 A. This is the American Express account of Jon Garth Murray,
13 Society of Separationists.

14 Q. Offer W44-1.

15 MS. WILLIAMS: No objection.

16 THE COURT: Received.

17 Q. (BY MR. CARRUTH) Show you W44-2.

18 A. 44-2 is an Optima card for Jon Garth Murray, appears to be
19 individual.

20 Q. Offer Government W44-2.

21 MS. WILLIAMS: No objection.

22 THE COURT: Received.

23 Q. (BY MR. CARRUTH) Show you what's been marked Government
24 Exhibit W44-3, and ask you if you can identify that, sir.

25 A. It's an additional account of Jon Murray for -- it's an

Martin - Direct (Resumed)

1 American Express credit card account, another account.

2 Q. Offer W44-3.

3 MS. WILLIAMS: No objection.

4 THE COURT: Received.

5 Q. (BY MR. CARRUTH) Show you W44-1.

6 A. Yes, sir, this is a First U.S.A. credit card, also, and it
7 is of the account of -- an account for Jon Murray.

8 Q. Offer W43-1.

9 MS. WILLIAMS: No objection.

10 THE COURT: Received.

11 Q. (BY MR. CARRUTH) Show you two exhibits now, marked W45A-1
12 and W45A-2. Do you recognize those?

13 A. These are Citibank Mastercard. Yes, 45A-1 is a Citibank
14 Mastercard for Madalyn Murray O'Hair.

15 Q. Offer W45A-1.

16 MS. WILLIAMS: No objection.

17 THE COURT: Received.

18 A. And this is a -- it's like a Diner's Club although it says
19 Citibank. It's Diner's Club for Jon Murray with United
20 Secularists -- I'm sorry, Society of Separationists.

21 Q. Offer W45A-2.

22 MS. WILLIAMS: No objection.

23 THE COURT: Received.

24 Q. (BY MR. CARRUTH) I'm now showing you, sir, what's been
25 marked for identification purposes as W41-1, W41-2, W41-3 and

Martin - Direct (Resumed)

1 4, combined in one exhibit.

2 A. Yes, sir, these are the -- this is the money transfer
3 items, but I believe they're with the Western Union. These
4 are Western Union.

5 Q. Western Union Financial?

6 A. Yes, sir.

7 Q. Relating to what particular transfer?

8 A. Transfers of -- this one is of Gary Karr to Crystal Karr,
9 looks like Patti Steffens to FM Services, and Gary Karr to
10 Christine Von.

11 Q. Okay. Offer Government Exhibit W41-1, 2, 3 and 4.

12 MS. WILLIAMS: No objection.

13 THE COURT: They're received.

14 Q. (BY MR. CARRUTH) Please look now at W34-1. W34-1 are the
15 records of National Rent-a-Car that relate to the Lincoln
16 Continental rented by Jon Murray?

17 A. In San Antonio.

18 Q. Yes, sir. Offer W34-1.

19 MS. WILLIAMS: No objection.

20 THE COURT: What is that last number?

21 MR. CARRUTH: W34-1, your Honor.

22 THE COURT: It's received.

23 Q. (BY MR. CARRUTH) Show you W69-1, and ask you if you
24 recognize that as a copy of a letter of immunity granted to
25 Mr. Joey Cortez or Joe Cortez by the Travis County District

Martin - Direct (Resumed)

1 Attorney's Office?

2 A. Yes, I've seen this in our office.

3 Q. We'd offer W69-1.

4 MS. WILLIAMS: No objection.

5 THE COURT: Received.

6 Q. (BY MR. CARRUTH) I show you Government Exhibit W1A-1, a
7 certified copy under seal of the Secretary of the State of
8 California, regarding United Secularists of America. Do you
9 recognize that document?

10 A. Yes, these look like the articles of incorporation for the
11 United Secularists of America.

12 Q. Offer WA1-1, your Honor.

13 MS. WILLIAMS: No objection.

14 THE COURT: Received.

15 Q. (BY MR. CARRUTH) Show you a document, marked W36-2, from
16 U.S.A.A. Federal Savings Bank regarding Mark and Shirley
17 Sparrow. Do you recognize that?

18 A. Yes, sir, this is a -- relates to the documents that are
19 involved in the sale of purchase, actually, of the Mercedes.

20 Q. As well as -- excuse me, W36-3 and 4?

21 A. Yes, sir, this relates to the check that was used to
22 purchase and this is the CTR, I believe.

23 Q. And all of these relate to the purchase of the Mercedes
24 Benz by Jon and Mark and Shirley Sparrow?

25 A. Yes.

Martin - Direct (Resumed)

1 Q. We would offer Government Exhibit 36-2, 3 and 4.

2 MS. WILLIAMS: No objection.

3 THE COURT: Received.

4 Q. (BY MR. CARRUTH) I show you now what's been marked for
5 identification as W46A-1, W46A-2, W46A-3, W46A-4, W46A-5 and
6 W46A-6. Can you identify these records for us, please, sir?

7 A. Yes, sir. These are the records that I received from --
8 they're under seal and they were received from Colin Newby in
9 Auckland, New Zealand. He works for the New Zealand Trust
10 Financial Services.

11 Q. All right. And was that the source of the \$600,000 that
12 was wire transferred to New Jersey and then, on to San
13 Antonio?

14 A. Yes, sir, it was.

15 Q. We would offer Government Exhibit W46A-1 through 6.

16 MS. WILLIAMS: No objection.

17 THE COURT: They're received.

18 Q. (BY MR. CARRUTH) Show you what's been marked W92-1 for
19 identification. Do you recognize that document, sir?

20 A. Yes, sir, these are the e-mails that we subpoenaed from
21 Yahoo! in regards to David Waters.

22 Q. Did they also relate to Mr. Karr?

23 A. They also -- they contain e-mails back and forth between
24 various people including Mr. Karr.

25 Q. We'd offer W92-1, your Honor.

Martin - Direct (Resumed)

1 MS. WILLIAMS: Your Honor, I object to the exhibit
2 because it contains a great number of e-mails that are
3 completely irrelevant to this case.

4 MR. CARRUTH: We'll be happy to let counsel go through
5 it before it goes to the jury, your Honor, and take out those
6 that she objects to.

7 THE COURT: All right. I will reserve on 92-1 until
8 in the morning. Counsel will have an opportunity to go
9 through during the evening recess.

10 Q. (BY MR. CARRUTH) Now, Mr. Martin, the purpose in putting
11 all of those exhibits in at one time is to enable you to
12 testify as a summary witness, correct?

13 A. Yes, sir.

14 Q. Can you tell the jury and the Court whether or not, during
15 the past, how many years have you been involved in this
16 investigation?

17 A. Three years now.

18 Q. That you have reviewed all of the records that have gone
19 into evidence and using general accounting principles, have
20 prepared charts and diagrams to aid the jury, if it does, in
21 deliberating and interpreting the evidence in this case?

22 A. Yes, sir, I have.

23 Q. Let me show you, first, sir, what's been marked for
24 identification as Government Exhibit W100-31. Do you
25 recognize that chart, sir?

Martin - Direct (Resumed)

1 A. Yes, sir, that's the chart that I had directed to be built
2 by our trial orchestrator in Kentucky.

3 Q. And it purports to show areas among various states?

4 A. It points to show the movement of an individual, Gary
5 Karr, during 1995.

6 Q. And are those information on this chart either supported
7 by the records in evidence or other exhibits or the testimony
8 of witnesses who have preceded you?

9 A. Yes, they have.

10 Q. We would offer Government Exhibit W100-3(1) in
11 parenthesis.

12 MS. WILLIAMS: Your Honor, the only objection I have
13 to that chart is the title of it indicates 1995, which would
14 indicate that it contains movement of my client outside the
15 scope of the alleged conspiracy. So if it does, that's my
16 objection.

17 THE COURT: I'll let you ask a couple of more
18 questions.

19 MS. WILLIAMS: I'll withdraw my objection, your Honor,
20 based on counsel's assertion.

21 THE COURT: All right. 100-31 is submitted.

22 MR. CARRUTH: Thank you.

23 Q. (BY MR. CARRUTH) Now, with the permission of the Court,
24 could you come down here on the pointer and indicate to the
25 jury what these lines back and forth indicate as they relate

Martin - Direct (Resumed)

1 to the interstate movement of Mr. Karr during 1995, during the
2 time frame of the alleged conspiracy?

3 A. Yes, your Honor. This movement shows the -- him leaving
4 Vienna, going to Chicago, where he stayed with Francis
5 Cuccinata. Moving down to New Port Richey, where he lives
6 around, or near, or maybe with Charlene Karr, then he moved to
7 Austin and was with David Waters here at times. The movement
8 then -- as the arrow shows, it moved back and forth, so there
9 are times that he moves back to New Port Richey.

10 Then, also shows movement to Buda, Texas, where the
11 Interstate Inn is located. Then, down to San Antonio, where
12 the Warren Inn is located. Then, from San Antonio, the arrow
13 goes back and forth to New Jersey, where the Boonton Bank or
14 the Nat West, or National Westminster Bank, is located, where
15 the \$600,000 transfer was done on September the 21st. And
16 then, returns on September the 22nd to San Antonio.

17 From that, also, there was a movement indicating here
18 from Austin to Camp Wood, and that is indicated by his
19 statement to me when I talked with him.

20 Q. Thank you, sir. Now, the next exhibit, sir, is marked
21 Government Exhibit W100-03, paren 2. Does that show a similar
22 interstate movement by Mr. David Waters during the time frame
23 in question?

24 A. Yes, sir, it does show similar movement.

25 Q. And we would offer at this time Government Exhibit W100-3,

Martin - Direct (Resumed)

1 subsection 2.

2 MS. WILLIAMS: No objection.

3 THE COURT: Received.

4 MR. CARRUTH: Thank you.

5 Q. (BY MR. CARRUTH) Could we please display that for the jury
6 now and indicate to them what those directions of travel were?

7 A. Yes, sir. Initially, the movement is from Austin to Buda,
8 and then, Buda back and forth -- or, actually, to San Antonio
9 and back and forth to Austin. Then, the movement also is from
10 Austin to Dallas, and then, from -- this should be back and
11 forth. This arrow should be -- oh, it is two. It's to New
12 Port Richey via vehicle. It wasn't an arrow like there kind
13 of indicates.

14 And then, moving from New Port Richey to Naples,
15 Florida. Then, from Naples, Florida back to New Port Richey.
16 New Port Richey to New Orleans, Louisiana, and then, back to
17 Austin, Texas. From Austin -- prior to that, though, the
18 movement was also from Austin to Camp Wood, Texas. Then,
19 there's movement, also, from Austin to Dallas, Texas and back.

20 Q. Now, you mentioned the movement between New Port Richey
21 and Naples, Florida. Is that same movement also shown on the
22 movement of Gary Karr down here?

23 A. Yes, sir, it is.

24 Q. And is that the trip to see Bob Fry regarding the alleged
25 letter?

Martin - Direct (Resumed)

1 A. That represents the trip to Bob Fry.

2 Q. Thank you. The next chart, sir, is marked for
3 identification W100-3, subsection 3. And does that relate to
4 the interstate movement of Danny Fry during the time frame in
5 question?

6 A. Yes, sir, it does.

7 Q. We'd offer that at this time, your Honor, W100-3, 3 in
8 parenthesis.

9 MS. WILLIAMS: No objection.

10 THE COURT: Received.

11 Q. (BY MR. CARRUTH) Please tell the jury what that was.

12 A. Yes, it represents Danny Fry coming from Austin -- I mean,
13 from Naples, Florida to Austin in July of 1995, and Danny Fry
14 moving from Austin to Buda, from Buda -- in Buda, where he was
15 at the Interstate Inn, and then, from Buda to the Warren Inn,
16 and then, back to Austin on September 23rd -- September 30th.

17 And then, he travels and his body is found in Dallas
18 -- southeast of Dallas on October the 2nd.

19 Q. All right, sir. And finally, we have the chart marked
20 W100-3, subsection 4, showing interstate movement of Jon Garth
21 Murray during 1995.

22 MS. WILLIAMS: No objection.

23 MR. CARRUTH: We would offer W100-3, subsection 4.

24 THE COURT: Received.

25 Q. (BY MR. CARRUTH) Would you please explain to the jury what

Martin - Direct (Resumed)

1 these travel arrows indicate with regard to Mr. Murray?

2 A. Yes, sir. Mr. Murray traveled, initially in July, from
3 Austin to New Jersey -- actually, to New York to visit the
4 area in which they were going to picket the Pope. He flew
5 back to Austin. Then, they flew -- the family flew to
6 Richmond, Virginia and that area where they met with Arnold
7 Via. And they returned to Austin shortly before the end of
8 August, 1995.

9 Then, the movement then is from Austin to Buda at the
10 Interstate Inn. Then, from Buda to San Antonio, where they
11 were at the Warren Inn. And then, this arrow here represents
12 Jon Murray flying to New Jersey on August the -- I'm sorry,
13 September 21st and returning on September 22nd. And that's
14 what it shows.

15 Q. Thank you, sir. Agent Martin, in order to aid the jury,
16 if it does, in interpreting the evidence, have we prepared
17 blowups of calendars for the months of August, September and
18 October of 1995?

19 A. Yes, sir, there are blank calendars representing August,
20 September and October 1995.

21 Q. And those are marked for identification W100-71, 72 and
22 73; is that correct?

23 A. Yes, sir, it is.

24 Q. And we would offer that at this time, your Honor.

25 MS. WILLIAMS: No objection.

Martin - Direct (Resumed)

1 THE COURT: Received.

2 Q. (BY MR. CARRUTH) Now, after your analysis of the evidence
3 in this case, sir, have you prepared a time line based on the
4 evidence that has been presented either by the testimony of
5 witnesses or by the exhibits and records that have been
6 introduced into the record?

7 A. Yes, sir, I did.

8 Q. I show you first what's been marked as Government Exhibit
9 W100-61.

10 MS. WILLIAMS: No objection.

11 THE COURT: Received.

12 Q. (BY MR. CARRUTH) Could you please come back down here and
13 with your pointer, briefly run the jury through this and what
14 it indicates, the significant dates in question.

15 A. First of all, the information that we obtained was from
16 the witnesses' testimony in this trial. And the telephones,
17 you'll see here, represent cellular phone calls or, at this
18 point, telephone calls between Mr. Waters and Mr. Karr, then
19 Mr. Waters and Mr. Osborne.

20 And in this instance here, 1994, the first one up here
21 is the arrest of Mr. Waters and -- on the theft of \$54,000
22 from the American Atheist and from Jon Murray. The remainder
23 is we have a lot of telephone records, and I attempted here to
24 summarize those phone records so that you can see the various
25 phone calls being made.

Martin - Direct (Resumed)

1 Initially, these are two phone calls that are collect
2 in December of 1994 from Mr. Karr to Mr. Waters. And as a
3 result, what I've got, again, is that the next phone calls are
4 of Mr. Karr calling and it says where he's calling from,
5 Vienna, Illinois. And then, things change because Mr. Karr is
6 paroled and then -- when he was paroled, he then resides with
7 Francis Cuccinata, who he then starts to call Mr. Waters from
8 Ms. Cuccinata's home.

9 He then buys a ticket here on his Discover card -- or
10 Discover card that Ms. Cuccinata and he had together. I
11 believe it was Discover -- Southwest Airlines and comes to
12 Austin. There are a number of phone calls, then, that start
13 from David Waters' residence to Lisa Jones' home, indicating
14 to me that that would be -- he would be calling Danny Fry.

15 MS. WILLIAMS: Your Honor, I'm going to object to any
16 indications to Agent Martin what his conclusions are from his
17 summary of these records.

18 THE COURT: Sustain the objection.

19 THE WITNESS: Yes, sir.

20 A. Waters then pled guilty May of 1995 to the \$54,000 theft.
21 There are a number of other telephone calls being made between
22 Mr. Karr and Mr. Osborne and Mr. Waters and Mr. Fry. The
23 O'Hairs have asked to -- for a restraining order against Mr.
24 Waters in June. They erect a fence in June of 1995 around the
25 American Atheist Headquarters.

Martin - Direct (Resumed)

1 There are additional telephone calls here between Mr.
2 Karr and Mr. Waters, Mr. Fry and Mr. Waters. Then, Mr. Fry
3 travels to Austin. This is approximately July of -- July
4 18th, 1995. Mr. Karr is employed by Mr. Art Miller. These
5 are the dates that he was employed by Mr. Miller.

6 Then, the American Atheist Newsletter is published,
7 reflecting the criminal history of Mr. David Waters and the
8 fact that they had employed him. There are a number of other
9 telephone calls from Mr. Waters to Mr. Karr. There's travel
10 here to Texas by Mr. Karr in -- sometime in August.

11 Then, the O'Hairs leave Austin and they go to Virginia
12 and stay with Mr. Arnold Via. From there, Art Miller pays Mr.
13 Karr in August -- on August 23rd, 1995 for his labor in
14 working at his residence. Mr. O'Hair then cuts a check to the
15 Four Seasons Travel for the trip of Madalyn Murray for her and
16 Robin Murray O'Hair to the October picket the Pope. That's a
17 prepaid ticket.

18 Mr. Karr then travels to Austin on the 25th. There is
19 a rental of a van, van No. 1 as it's referred to. Van No. 1
20 is rented. It is a Ford Windstar, teal in color, rented by
21 Mr. Karr. The van was rented by a credit card paid, actually,
22 in cash.

23 Q. Show you the next chart, Agent Martin, and it continues
24 the time line, marked for identification as Government's
25 Exhibit W100-6, subsection 2. And we would offer it at this

Martin - Direct (Resumed)

1 time.

2 MS. WILLIAMS: No objection.

3 THE COURT: It's received.

4 A. I want to correct myself. I stated that Mr. Karr came to
5 Austin on a Discover card. It was actually a Mastercard that
6 he had with Mrs. Cuccinata. August the 27th, the O'Hairs were
7 last seen -- at least they were at their location and seen by
8 Mr. Albarado. Mr. Karr advised me that he moved the Porsche
9 to the Austin Airport on or about August the 27th.

10 On the 27th, the Interstate Inn is rented. The
11 Interstate Room No. 219 is rented at the Interstate Inn by Mr.
12 David Waters. Ms. Steffens received a phone call from Capps
13 about the return of a van. Then, there is a note left on the
14 door of the American Atheist General Headquarters on August
15 28th, but the note is dated August the 27th. It says that we
16 won't be back. We've been called out of town on emergency and
17 we won't be back until September 15th.

18 Mr. Waters then rents the Interstate Inn a second
19 night, the 28th, and stayed -- the room is rented. Then, Mr.
20 Waters and Mr. Karr register at Warren Inn on August the 28th,
21 and they register from August the 28th through September the
22 27th -- September the 27th. They pay in advance.

23 Then, the rental car or the rental van is returned to
24 Austin, van No. 1 is returned to Austin. That then proceeds
25 to be -- and you'll notice that these are green indications of

Martin - Direct (Resumed)

1 money. Jon Murray issues two checks, \$1500 each for a total
2 of \$3,000 on August the 28th.

3 Mr. Fry leaves Austin and is not seen by Ms. Patti
4 Steffens again until September the 30th. Mr. Tyson, after
5 seeing this letter, this note on the door, goes to the
6 O'Hairs' residence on Greystone and leaves a note in the door,
7 checks on the dogs, sees the garage door open.

8 Mr. Fry, who is now at the Interstate Inn, calls Lisa
9 Jones from the Interstate Inn and the truck stop, 221 Truck
10 Stop there. Then, the next day, September the -- I mean,
11 August the 29th, Mr. Karr calls Lisa Jones from the Warren Inn
12 Apartments.

13 MS. WILLIAMS: Excuse me. You mean Mr. Fry.

14 A. Mr. Fry, I'm sorry, not Mr. Karr. Mr. Fry calls Lisa
15 Jones, his girlfriend, from the Warren Inn in San Antonio.
16 Robin Murray O'Hair then calls the Griffith Hospital about her
17 animal. She's concerned about them. She advises she had a
18 death in the family. Griffith goes by and picks up the dogs
19 from the residence. Mr. Tyson returns to the residence the
20 next day, checks the house, finds the dogs are gone and the
21 garage door still open, and the note is gone.

22 Then, again, there's another withdrawal of cash. Mr.
23 -- I'm sorry. Mr. Karr, in this instance, sends a money gram
24 to Charlene Karr for \$3,361 plus a fee. And at the same time,
25 Mr. Karr sends to Lisa Jones a money gram for \$2,700 plus a

Martin - Direct (Resumed)

1 fee. So \$6,319 was spent at that point in time.

2 On August the 30th, Jon Murray issued check No. 1513
3 for \$2,000 to cash, cashes that check, and a check No. 215 on
4 another account for \$9,000, cashes that check, for a total of
5 \$11,000. On August the 31st, Jon Murray rents a Lincoln
6 Towncar in San Antonio from National Rent-a-Car. He had
7 rented it on -- to be returned on September the 14th.

8 Then, on August the 31st, again, Jon Murray issues a
9 check No. 216 for \$6,500 to cash and makes a bank debit of
10 \$400. So he obtains \$6,900 out of the bank on August the
11 31st. Jon Murray's cellular call, he's making phone calls
12 through MCI WorldCom, at 7:00 p.m. at night, to call -- and
13 looks like his first call to New Zealand. New Zealand is a
14 15-hour difference in time or 16 hours difference in time from
15 us. Jon Murray's cellular phone, again, called WorldCom in
16 New Zealand.

17 Mrs. Steffens -- Ms. Steffens receives an envelope
18 with \$5,000 in cash left behind by Mr. Waters in -- sometime
19 in this time sequence. Then, Jon Murray is -- on September
20 5th, again, is calling New Zealand and through his MCI card.
21 There is a signature card that was signed by John Murray on
22 September the 5th and returned to the Nat West Bank, which
23 established a United Secularists account number, too. And it
24 also -- I think United Secularists No. 1.

25 On the 5th of September, the 300 SEL Mercedes Benz,

Martin - Direct (Resumed)

1 owned by the -- by Jon Murray, was sold to Mark Sparrow for
2 \$16,000. A cashier's check was issued and that check was
3 subsequently cashed. I missed here, on September the 1st,
4 this was the first of three prescriptions being filled by the
5 Drug Emporium in San Antonio for Madalyn Murray O'Hair's
6 prescriptions.

7 In September, again, Mr. Tyson advised that the
8 Donahue Show was calling for Madalyn Murray O'Hair to be on
9 that show.

10 Q. As a continuation of the time line, your Honor, we would
11 offer Government Exhibit W100-6, subsection 3.

12 MS. WILLIAMS: No objection.

13 THE COURT: It's received.

14 A. Mr. Murray's cellular phone is, again, is calling a number
15 of types on the cellular phone out to New Zealand on his MCI
16 card. Then, on September the 8th, Mr. Murray issues a check
17 for \$2,000 to the City of Austin Utilities. Mr. Murray's
18 cellular phone calls a number of the credit card companies
19 that we have -- that we have here.

20 And then, Mr. Tyson, on September the 11th, receives a
21 letter that was dated September the 7th, which -- in which the
22 -- he's told about the operation, and he's given this check
23 for \$650 and some keys and a security code. And then, again,
24 there are a number of telephone calls made on the cellular
25 phone of Mr. Murray to -- this Fleet Bank is actually the bank

Martin - Direct (Resumed)

1 that -- it took Nat West. So that is the Nat West Bank he was
2 calling.

3 And then, there's another of -- this is a credit card
4 company and this Cirrus cash machine located -- it's like a
5 company -- a number that you would call to tell you where you
6 can cash certain types of -- I mean, you could use certain
7 types of credit cards.

8 Jon Murray's cellular phone then calls Nat West again,
9 answer service, and for the first time, Mr. Murray's phone --
10 cellular phone calls Corey Ticknor on September the 12th.
11 Then, he calls, again, a number of different places, different
12 credit card companies.

13 Then, on September the 12th, Mr. Murray receives two
14 wire transfers from New Zealand in the amount of \$4,000, which
15 went to his Frost National Bank account, and a \$3,132 amount
16 that went to the National -- I mean, Nat West Bank, which went
17 to the United Secularists account.

18 Mr. Murray then is making phone calls to New Zealand.
19 He's calling various other places. Looks like he calls -- he
20 was supposed to return his rental car on September the 14th,
21 so he is calling National Rental Car at that point. Calls
22 Discover card a number of times.

23 Then, on September 14th, also, he withdraws a total of
24 \$9,500 from three credit cards. On the 15th, Mr. Murray makes
25 additional phone calls to various -- the cellular phone makes

Martin - Direct (Resumed)

1 phone calls to various credit card companies. On September
2 the 15th, there are also various credit card companies plus
3 Americus Diamond.

4 On September the 15th, again, there's a wire transfer
5 of \$8,136.25, which is received by the Nat West Bank, on one
6 of the United Secularists account. On the other account, an
7 additional \$12,457.90 was received on the other United
8 Secularists account at Nat West Bank.

9 Then, on September the 15th, credit card is withdrawn
10 on for the total of \$3,650, these various credit cards. The
11 O'Hairs were supposed to return to Austin on September the
12 15th in accordance with the letters that they had written.
13 And at this point, September the 15th -- this is Saturday,
14 September the 16th -- yes.

15 Waters purchased a 1990 white Cadillac Eldorado for
16 \$13,000 from the McKeegans, and that was a San Antonio
17 purchase and -- then, next, September the 16th, Mr. Karr was
18 also -- I'm sorry, was present during that particular purchase
19 of that vehicle.

20 MS. WILLIAMS: Your Honor, I object to that as a
21 misstatement of the testimony.

22 THE COURT: The jury will recall what the testimony
23 is.

24 THE WITNESS: I'm sorry, sir.

25 THE COURT: You may proceed.

Martin - Direct (Resumed)

1 A. September the 16th, Mr. Karr sent \$800 from Austin to his
2 daughter, Charlene Von, via Western Union. Mr. Karr also sent
3 \$2,000 to -- via a money gram to Charlene Karr. On September
4 the 16th, Ellen Johnson issued a check for a thousand dollars
5 to John Murray and sent it to him Federal Express.

6 On September the 16th, American Express card was used
7 to purchase Americus Diamond, a diamond at Americus Diamond
8 for \$6,665.42. On September 19th, Jon Murray received a
9 package containing the -- I messed up again. Receiving a
10 package containing that thousand-dollar check from Mrs. Ellen
11 Johnson.

12 I missed here, on September the 15th, that another
13 prescription was filled for Madalyn Murray O'Hair at the Drug
14 Emporium. There are a number of calls to various banks.
15 Then, Ms. Steffens received \$11,000 in cash in an envelope
16 from Mr. Waters, and Ms. Steffens spent -- sent via Western
17 Union a payment to FM Services.

18 Q. (BY MR. CARRUTH) As a continuation of the time line, your
19 Honor, the government would offer W100-6, subsection 4. I
20 believe we're going to need some tape if there's any
21 available, your Honor. As modified, we re-offer this exhibit,
22 your Honor.

23 MS. WILLIAMS: No objection.

24 THE COURT: Received, 100-6.

25 MR. CARRUTH: Thank you.

Martin - Direct (Resumed)

1 A. On September the 18th, Ms. Steffens' mother arrives in
2 Austin. On September the 19th, John Murray's cellular phone
3 was calling, first, Frost National Bank. Mr. Murray, on
4 September the 19th, deposited a check for a thousand dollars,
5 he transfers \$4,000 in cash, a check for \$3,000. He
6 transferred the check from one account to another and then,
7 wrote a check number of 2,049 on that account.

8 On September the 20th, Mr. Murrays' cellular phone is
9 calling a number of different banks, including Nat West Bank,
10 mainly in New Jersey these phone calls are being made to.
11 Then, on September 20th, Mr. Fry calls Lisa Jones and at the
12 Warren Inn, at 12:00 noon. September the 20th, Mr. Jon Murray
13 calls or cellular phone called a number of jewelry stores and,
14 again, called Corey Ticknor's Jewelry Store. In addition to
15 that, he calls Continental Airlines.

16 On the 21st, Murray called Corey Ticknor's Jewelers,
17 Centennial Precious Metals, the Nat West Bank and Petry
18 Travel. Mr. Murray then went to Petry Travel and at 2:45,
19 purchased a ticket for him and a Mr. C Johnson, Conrad
20 Johnson, to go to New Jersey. He paid for it with his
21 American Express credit card.

22 Mr. Murray called and spoke to Mr. Corey Ticknor about
23 noontime. And then, at 5:00 in the afternoon, Mr. Murray,
24 along with Mr. Conrad Johnson, left for New Jersey. Mr.
25 Murray's cellular phone is called from his -- Mr. Murray's MCI

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1 phone card while Mr. Murray is in New Jersey.

2 Then, the \$600,000 that -- a \$600,000 wire transfer is
3 made from the Nat West Bank in New Jersey to the Frost
4 National Bank in the account of Corey Ticknor. Mr. Murray
5 then, his cellular phone, Mr. Murray called -- his cellular
6 phone, again, three times from New Jersey.

7 Mr. Murray called Austin -- this is on September 22nd
8 still. And he called -- his cellular phone called North
9 Austin Medical Center and Corey's Fine Jeweler twice. On a
10 date not certain, Bob Fry sent a letter -- I'm sorry. Danny
11 Fry sent a letter to Bob Fry through Lisa Jones.

12 On September 22nd, Mr. Jon Murray entered a bank in
13 New Jersey and cashed a check for \$12,000. That was at the
14 Nat West Bank in Newark, New Jersey. On September the 22nd,
15 Jon Murray travels to San Antonio with Mr. C. Johnson, and
16 they arrive in San Antonio. The expenses there -- they stayed
17 in a hotel and expenses were paid with an American Express
18 credit card.

19 The wire transfer to Corey Ticknor was received about
20 10:28 a.m. in the amount of \$600,000. A call to and from Mr.
21 Murray's cell phone to Corey Ticknor on the 22nd. On the
22 23rd, Mrs. O'Hair's -- Ms. O'Hair's third prescription was
23 filled at a Drug Emporium in San Antonio.

24 On the 23rd, again, of September, Mr. Waters instructs
25 Ms. Steffens to rent a storage unit on Burnet Road, and she

Martin - Direct (Resumed)

1 rents Unit 1640. On September 23rd and 24th, this is the
2 Pecan Street Festival, and after one night, Mr. Waters is in
3 Austin. He asked Ms. -- Ms. Steffens sees a shovel and a bow
4 saw in the trunk of his Cadillac.

5 Waters instructs Ms. Steffens, also, in that period of
6 time to go and wash his Camaro and get the dirt specifically
7 out of the wheelbarrows. Mr. Corey Ticknor, on Monday,
8 September the 25th, purchases through Dillan Gage 500 --
9 \$600,000 worth of gold.

10 MR. CARRUTH: Continuing the time line, your Honor, we
11 offer Government Exhibit W100-6, subsection 5. I believe the
12 defense has an objection to -- Mr. Martin. As modified, your
13 Honor, the Government offers W100-6, 5 in parenthesis.

14 MS. WILLIAMS: No objection.

15 THE COURT: All right. It's received.

16 A. And continuing, September 26th, Mr. Osborne rented a
17 Public Storage unit and that's the Unit No. F052 at Public
18 Storage Unit, prepaid to December 1995, receiving funds he
19 paid with money received from Patti Steffens. Ms. Steffens
20 purchased a 1983 GMC pickup truck. On September 27, Mr.
21 Ticknor is calling -- I mean, Mr. Murray's cellular phone is
22 calling Mr. Ticknor and Capps Rental Car.

23 On September the 27th, van No. 2, the van is a Ford
24 cargo van -- is rented from Capps Rental Car here in Austin,
25 Texas. On September the 28th, the rental of room No. 11 is

Martin - Direct (Resumed)

1 extended for three days. On September the 28th, a cellular
2 phone receives incoming calls from Corey Ticknor's and from
3 Corey Ticknor's Fine Jewelers.

4 On September 28th, Mr. Ticknor enters his safe deposit
5 box at the Frost National Bank to deposit gold received. On
6 September the 29th, Jon Murray's cellular phone called New
7 Jersey, called Corey Ticknor, Society of Separationists, and
8 this is the last telephone call made by that cellular phone.
9 It was at 12:23 p.m.

10 On September the 29th, continuing, Mr. Ticknor
11 released \$500,000 in gold bullion to Jon Garth Murray. And
12 Mr. Albrecht was present with Mr. Ticknor. In 1995, Mr.
13 Waters and Mr. Karr went to the Burnet Storage unit at 1640,
14 unit No. 1640, in Austin, Texas, for the transfer of the gold.

15 September the 30th, Mr. Murray's Lincoln Continental
16 Towncar is returned to the San Antonio Airport, the National
17 Rent-a-Car. On October the 30th, Public Storage Unit is
18 accessed at 8:54, 10:51, 12:21. Between -- it says here in
19 September, October, Mr. D. Coryell, manager of Public Storage,
20 saw three men with 55-gallon barrels and two pickup trucks in
21 the vicinity of Unit F052.

22 On September 30th, Ms. Steffens' mother, Ms. Wise,
23 sees David Waters' car and Fry at Grace's, a restaurant,
24 having breakfast. And Mrs. Wise leaves Austin. Van No. 2 is
25 returned at 11:41 to Capps Rent-a-Car on September the 30th.

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1 On September the 30th, Lisa Jones was called by Danny Fry from
2 Waters' apartment at 2:27 p.m., 16th birthday of Lisa Fry,
3 last time Danny Fry is heard from.

4 On September the 30th, Waters, Fry and Karr returned
5 to the apartment in Austin, physically exhausted. Waters
6 returned with lots of money, expensive clothes and a Raymond
7 Weil watch. On September the 30th, Steffens saw three pairs
8 of bloody tennis shoes in the bag of the apartment of Waters.

9 On September the 30th, Danny Fry slept and awoke when
10 Steffens packed his suitcase. Waters hateful to Danny Fry.
11 On September the 30th, Waters, Fry and Karr leave the
12 apartment and are gone overnight. On October 1st, Public
13 Storage unit is entered at 9:54 p.m. for 21 minutes.

14 On October the 2nd, Mr. Karr calls Charlene Karr at
15 her residence. On October the 2nd, Public Storage Unit No.
16 F052 is accessed at 9:24 for 23 minutes. On October the 2nd,
17 Mr. Karr rents a van, a cargo van at Capps Rental Car, at
18 10:51 in the morning, and is, again, rented by credit card and
19 paid by cash.

20 The -- on October the 2nd, the Public Storage unit at
21 052 is entered again at 10:53, and the exit is not recorded.
22 On October the 2nd, Danny Fry's body is found at 2:30 in the
23 afternoon in Southeast Dallas, missing his head and his hands.
24 On October the 2nd, Corey Ticknor received the remaining
25 \$100,000 in gold coins and deposits in a safe deposit box and

Martin - Direct (Resumed)

1 never claimed by Mr. Murray.

2 On October the 2nd, Mr. Karr called Ms. Karr again in
3 Florida.

4 MR. CARRUTH: Okay. And continuing the time line,
5 your Honor, we offer Government's W100-6(6).

6 MS. WILLIAMS: Your Honor, I have several objections
7 to this item.

8 THE COURT: Members of the jury, I'll give you a
9 break. You may use the facilities, stretch, be ready to come
10 back in ten minutes.

11 (Jury not present.)

12 MS. WILLIAMS: Your Honor, in a continuing effort to
13 respond to our subpoena, Mr. Hawkins has just delivered some
14 new items to us from the Austin Police Department, missing
15 person's file. I want to make the Court aware that there is
16 -- I don't know what's in there, I haven't had a chance to
17 look at it, but we're receiving it.

18 THE COURT: Still on the same subpoena?

19 MR. HAWKINS: Yes, your Honor. What happened is one
20 officer had gotten subpoenaed and had gone through the file
21 and pulled out some materials before we had gotten the other
22 subpoena to do it. And he's now in the Family Violence
23 Section, and so we called him up -- or he was contacted by the
24 subpoena, and he said, "Oh, I bet you I have some of those
25 originals."

Martin - Direct (Resumed)

1 So I asked him to fax that over to me as soon as he
2 can. I went through the material. The material that you
3 provided that was new, I did with my own handwriting and wrote
4 "new" on it. The material that we had already previously
5 provided that he also sent to me, I did that, too, so they're
6 already separated.

7 THE COURT: Thank you, Mr. Hawkins.

8 MR. HAWKINS: Hopefully no more problems.

9 THE COURT: How are we on the exhibit now?

10 MR. CARRUTH: This is the last one, your Honor, then
11 we have a few more on financial transactions. And I
12 anticipate we'll be through in less than an hour. Hopefully
13 by 5:00. At least we'll pass the witness, your Honor. We're
14 ready. Your Honor, before we display this chart, though, we
15 will elicit some testimony from Agent Martin so it will
16 comport with what's on there. Very short if I may do it from
17 just standing there.

18 THE COURT: We'll all take a little break. Five to
19 six minutes.

20 (Recess.)

21 THE COURT: All right. Bring the jury back.

22 (Jury present.)

23 MR. CARRUTH: Thank you, your Honor. If it pleases
24 the Court, before we offer this final exhibit of the time
25 line, I'd like to ask Agent Martin, who's still under oath, a

Martin - Direct (Resumed)

1 couple of questions for its admissibility.

2 Q. (BY MR. CARRUTH) Agent Martin, did you determine during
3 your investigation that between 1996 and 1999, until he was
4 arrested, did Mr. David Waters prepare a manuscript for
5 publication about the O'Hairs' disappearance?

6 A. Yes, sir, he did.

7 Q. Did you also determine that he maintained a web site in
8 which he sold O'Hair memorabilia?

9 A. Yes, sir.

10 Q. And what was the name of that web site, if you know?

11 A. It was named Madalyn's Attic.

12 Q. And was that over the internet?

13 A. Yes, sir, it was posted on Cool Chat.

14 Q. And did your investigation determine during that same time
15 frame, between 1996 and the spring of 1999, when he was
16 arrested, that Mr. David Waters and Mr. Gary Karr, the
17 defendant, maintained regular contact through personal
18 visitation, telephone calls and e-mails?

19 A. Yes, sir.

20 Q. Thank you. With that predicate, your Honor, we would
21 re-offer Government Exhibit W100-6(6).

22 MS. WILLIAMS: No objection.

23 THE COURT: Received.

24 A. Continuing with the time line, October the 2nd, Ms.

25 Steffens sent a money gram to Crystal Karr. October the 2nd

Martin - Direct (Resumed)

1 to the 4th, there is a picketing of the Pope, which Madalyn
2 Murray O'Hair, Jon Murray were scheduled to picket the Pope in
3 New York and never appeared.

4 On October the 3rd, the gold coins were stolen from
5 the Burnet Storage Unit. On October the 3rd, after a call
6 from David Waters, Steffens contacted the Burnet Storage Unit
7 concerning the empty Unit No. 1640. On October the 3rd, Four
8 Seasons Hotel, David Waters and Ms. Steffens checked in, and
9 Mr. Karr checked in with Ms. Charlene Karr.

10 On October the 3rd, Mr. Karr called Charlene Karr in
11 Florida, called the number in Florida, and she flew in to
12 Austin and drove to the Four Seasons Hotel. On October the
13 3rd, a rental van No. 3 was returned at 6:12 p.m. to Capps
14 Rental Car. October 4th, the Four Seasons Hotel, Mr. Waters
15 checked out, Mr. Karr checked out.

16 On October the 4th, Mr. Karr and Charlene Karr leave
17 Austin for Florida. On October the 4th, David Waters gave Mr.
18 Karr three Rolex watches before Karr left Austin. On October
19 the 5th, Ms. Steffens received a call from Danny Fry -- from
20 the Fry -- from Fry's daughter Lisa and questioned the
21 whereabouts of Danny Fry.

22 On October the 5th, Bob Fry called Mr. Waters
23 regarding the whereabouts of Danny Fry. On October the 5th,
24 Waters and Steffens called Charlene Karr in Florida, that
25 phone number. On October the 6th, Bob Fry called Waters

Martin - Direct (Resumed)

1 regarding the whereabouts of Danny Fry and mentioned a letter.

2 On October the 6th, Waters, Steffens called Charlene
3 Karr's number again in Florida. On October -- or in October,
4 around this period of time, Mr. Tyson entered the O'Hairs'
5 residence and viewed the attic and found the suitcases and
6 walker gone. On October 7th, Waters and Steffens drive to
7 Florida and stayed with the -- with Karr -- with the Karrs for
8 a few days.

9 On October the 8th, Waters called Bob Fry to get his
10 address to deliver a letter. Waters and Karr went to Bob
11 Fry's residence and Waters carried a gun. On October the
12 10th, Waters and Steffens, driving back to Austin, stayed in
13 New Orleans at the Royal Sonesta. On October the 11th, Waters
14 and Steffens arrive in Austin and called Charlene Karr's
15 number.

16 On October the 11th, the birthday of Ron Waters, and
17 he received a Nine-Millimeter weapon after that. On October
18 the 12th, Mr. Karr returns to the job at Art Miller, and he's
19 working October the 12th through the 20th. October the 28th,
20 the Public Storage records of -- for Unit No. 052 reflect that
21 a relative was to come by and to take a lock off of -- take
22 the lock by October the 3rd and refund to be sent to Osborne
23 at West Tawakoni, Texas address.

24 Q. On October 29th, Steffens drove Waters to the Public
25 Storage Unit. October -- F052. Waters uses a spray bottle

Martin - Direct (Resumed)

1 with bleach solution, sprayed the unit. Public Storage
2 records for a unit 052 reflect that it was accessed at 3:05 in
3 the afternoon and exited at 3:12 in the afternoon.

4 On October 30th, Public Storage records reflect that
5 unit -- the tenant refund requested \$172 issued to Mr.
6 Osborne. The unit was emptied on October the 31st. Mr.
7 Waters, on October the 31st to November the 4th, Waters and
8 Steffens called Charlene Karr in Florida, numerous times.

9 In October -- in November 1995, Mr. Gary Karr and
10 David Waters drive to Camp Wood, Texas. November to December
11 1995, Waters and Steffens call Charlene Karr in Florida
12 numerous times before Christmas. On October the 18th through
13 the 31st, Waters and Steffens take a trip to Peoria for
14 Christmas. David Waters removed the barrel from the gun of
15 Mr. Ron Waters.

16 1996 to 1999, Mr. Waters prepared a manuscript
17 publication about the O'Hairs and maintained a web site,
18 referred to Madalyn's Attic, which resold Madalyn O'Hair
19 memorabilia. 1996 to 1999, David Waters and Gary Karr
20 maintained contact through visitations and telephone calls and
21 e-mails.

22 Q. (BY MR. CARRUTH) Now, just one point of clarification,
23 Agent Martin. Throughout your time line, you've made several
24 references to Waters and Steffens phone to be used to call
25 someone. Is it a fair statement of the evidence that they

Martin - Direct (Resumed)

1 both were living together at that time and both had access to
2 that particular telephone?

3 A. Yes, sir.

4 Q. So could have been one or the other instead of both of
5 them at the same time?

6 A. Yes.

7 Q. All right. Now, utilizing your financial investigative
8 technique, did you prepare a spreadsheet based upon the
9 financial aspects of this case to show the income allegedly
10 received by principals and the expenditures made by the
11 principals on the other side?

12 A. Yes, sir.

13 Q. Sort of a incoming, outgoing chart? We offer Government
14 Exhibit W100-51.

15 MS. WILLIAMS: No objection.

16 THE COURT: It's received.

17 Q. (BY MR. CARRUTH) Could you run through this just as
18 briefly as possible, please?

19 A. Yes. This is referred to as a source and application of
20 funds. It is a common technique used by the Internal Revenue
21 Service to determine unreported income. What I have on this
22 side is the sources of money. It represents checks in this
23 particular month. This is the month of August, and it
24 represents checks issued by Jon Murray.

25 And, also, a debit memorandum here for withdrawal of

Martin - Direct (Resumed)

1 funds. That total withdraw was \$20,090 in August. At the
2 same time, accounting for the money being spent by David
3 Waters for the hotel and the Interstate Inn for receiving --
4 Patti Steffens receiving \$5,000, and the various other things
5 that were paid for during that particular month, and money
6 grams, and things that were sent by Mr. Karr -- Mr. Karr to
7 Charlene and to Lisa Jones, the total expenditures during that
8 month of these funds that we could account for was \$12,268.41.

9 Q. Okay. Continuing with W100-52. We would offer as
10 modified W100-52, your Honor.

11 MS. WILLIAMS: No objection.

12 THE COURT: It's received.

13 A. This is a continuation as to the month of September. And
14 in addition to checks issued here, there were also credit card
15 withdrawals and advances. It's also a few unusual items in
16 that this is cash proceeds from the sale of the Mercedes that
17 are available. It was cashed \$15,000. And in this instance,
18 this is the purchase of the Americus diamond for \$6,665.42.

19 All the other items are in credit cards are check
20 withdrawals, and that total amount of sources of funds and
21 items which would generate cash is total \$60,665.92. On this
22 side, there are a number of expenditures that I accounted for
23 from review of the records, and they total -- I applied the --
24 I pushed or put the receipt of the diamond as income item and
25 an expenditure item, because Mr. Waters has possession of that

Martin - Direct (Resumed)

1 diamond.

2 As a result, in this instance, there are a number of
3 different expenditures, one being Steffens receiving \$11,000
4 in cash from David. Mr. Karr sending his daughter, Christina,
5 a money order. And expenditures made by Ms. Steffens. And to
6 avoid double counting when Ms. Steffens paid Mr. Chico Osborne
7 for the rental of the warehouse, I did not add that 7 -- \$700
8 considering the fact it was probably part of that \$11,000 in
9 the first place.

10 In addition to that, Ms. Steffens purchased a 1983 GMC
11 pickup. And I did not pick up that because that's part of the
12 11,000. David Waters returned to the apartment with the
13 Raymond Weil watch. That was the only thing of value,
14 approximate value of \$11,000, that I could come up with in the
15 computation. I had no direct evidence of anything additional.

16 The payment of cash for the van No. 2 with Mr. Karr.
17 The total amount of expenditures is \$34,436. The amount of
18 income was \$60,665, are funds available, that is, not income.

19 Q. (BY MR. CARRUTH) In continuation, the government would
20 offer W100-53. We would re-offer W100-53, your Honor.

21 MR. T. MILLS: We don't have any objections to it
22 being admitted. We are going to argue with some of the
23 numbers, but I think that our objection would go to the weight
24 rather than admissibility.

25 THE COURT: All right.

Martin - Direct (Resumed)

1 MR. T. MILLS: Would that be all right?

2 THE COURT: 100-53 is admitted without objection.

3 A. Continuing, this is October and in this instance, there
4 were no checks written, no credit card withdrawals, but there
5 was the value of the Rolex. In the testimony here, I believe
6 it was \$10,000 was the total amount testified to. So I
7 included that as a source or a fund item. And I passed that
8 over to Mr. Karr when he received it from Mr. Waters at
9 \$10,000.

10 Now, in the process, in October, there were a number
11 of wire transfers of moneys that although there's no money
12 from this side, during October, there are funds left over from
13 the previous month that can go to the expenditures that are
14 here, including \$15,000 here for watches and jewelry.

15 Again, there were payments to the Four Seasons for the
16 rental of a car. I don't know what that number is nor the
17 purchase of the airline ticket for Mrs. Karr. But there were
18 -- there had to be expenditures to get these people to where
19 they were going.

20 In addition to that, we have expenditures that are
21 made after October concerning the purchase of a Harley
22 Davidson, a computer, furniture and a car for Crystal. I have
23 no way of knowing what that amount is. So in the month of
24 October, there were \$10,000 of available funds and items and
25 available for expenditure.

Martin - Direct (Resumed)

1 And then, in October, the expenditures totalled
2 \$27,829.78. Taking the total amount -- the grand total of all
3 income or all moneys and items of -- available for the months
4 of August, September and October totals \$91,565, and the
5 expenditures that were made total \$74,534.40, resulting in
6 about \$17,000 left over. Also resulting in about 81 percent
7 of the moneys that were available were expended according to
8 what I determined here.

9 MR. CARRUTH: As modified, your Honor, we'd offer
10 Government Exhibit 100-54.

11 MS. WILLIAMS: No objection.

12 THE COURT: Received.

13 A. This represents the source of funds being the gold coins.
14 The gold coins were transferred from New Zealand in the amount
15 -- well, I'm sorry. The money used to purchase was
16 transferred via wire transfer of \$608,000 from New Zealand
17 account to the Nat West Bank account in New Jersey.

18 The transfer -- then, the funds were transferred,
19 600,000 of those funds were transferred to Corey Ticknor's
20 account in San Antonio to purchase the gold. Mr. Murray
21 picked up \$500,000 worth of gold. Corey Ticknor received an
22 additional \$100,000 worth of gold. So I'm accounting for the
23 \$600,000.

24 The gold coins stored in Unit 1604, \$500,000. Three
25 young men steal \$500,000 worth of gold coins from Unit 1640,

Martin - Direct (Resumed)

1 \$444,000. It leaves approximately \$60,000 for additional
2 expenditures.

3 Q. (BY MR. CARRUTH) Agent Martin, in addition to the figures
4 displayed on the spreadsheets, did you identify any additional
5 expenditures made by Mr. Gary Karr during the month of
6 September 1995 that were not reflected on that particular
7 spreadsheet?

8 A. Yes, sir, there was a -- I omitted another wire transfer.
9 I believe it was a wired fund of \$2,079 to Charlene Karr on
10 September 16th.

11 MR. CARRUTH: And, your Honor, the government would
12 offer Government Exhibit W100-4.

13 MS. WILLIAMS: No objection.

14 THE COURT: 100-4 is received.

15 Q. (BY MR. CARRUTH) Agent Martin, does this chart more
16 clearly explain the transfer of moneys from New Zealand to New
17 Jersey to San Antonio used to purchase the gold coins?

18 A. Yes, sir. This is the -- represents the United -- New
19 Zealand Guardian Trust. They transfer \$608,000 to this
20 particular account at -- it was the United Secularists account
21 at the Nat West Bank, and then, they transferred \$12,000 from
22 another account -- from the same account in New Zealand to a
23 second account at the Nat West account -- Nat West Bank.

24 Then, Mr. Murray transferred \$600,000 out of this
25 account, account last numbers are 079. And then, when he was

Martin - Direct (Resumed)

1 in New Jersey, in Newark, New Jersey, he cashed a check for
2 \$12,000 on account number ending in 547. That money was
3 cashed. This money was transferred to the account of Corey
4 Ticknor.

5 Q. Thank you, Agent Martin. We pass the witness, your Honor.

6 MS. WILLIAMS: May we approach, your Honor?

7 (At the Bench, on the record.)

8 MS. WILLIAMS: I expect my cross-examination of Agent
9 Martin to last at least an hour. We have a witness who is
10 here from Georgia we would like to take out of order at this
11 point so he can go back to Georgia and not to spend another
12 night.

13 MR. CARRUTH: We have no objection to that, your
14 Honor.

15 MS. WILLIAMS: Would that be all right?

16 THE COURT: Uh-huh. Members of the jury, I'm sorry
17 that you had to come to the federal court to learn that the
18 world is not perfect. And, occasionally, because of schedules
19 and whatnot, we'll take people out of order. And the lawyers
20 have asked me to have a witness out of order. Defendant
21 wishes to call a witness who must leave tonight.

22 So I'm going to stop with Mr. Martin. He can go take
23 his seat for the time being. Please remember that this is a
24 witness called on behalf of the defendant and will not be
25 available tomorrow. You may proceed.

Gordon - Direct

1 MS. WILLIAMS: Thank you, your Honor. We call Dr.
2 William Gordon.

3 THE COURT: Come forward, please, and be sworn.

4 (Witness was sworn.)

5 THE COURT: Come around this column here, please, sir,
6 and sit in the witness box. If you'll tell us your full name
7 and spell your last name, please.

8 THE WITNESS: Full name is William Edward Gordon, Jr.
9 Last name is spelled G-O-R-D-O-N.

10 WILLIAM E. GORDON, JR., called by the Defendant, duly sworn.

11 DIRECT EXAMINATION

12 BY MR. T. MILLS:

13 Q. Do you have a doctoral degree?

14 A. Yes, I do.

15 Q. All right. Dr. Gordon, where do you live? If you'd tell
16 the members of the jury and his Honor.

17 A. I live in South Forsyth County. My mailing area is
18 Alpharetta, but I actually don't live in the city of
19 Alpharetta, Georgia.

20 Q. All right. How old are you?

21 A. I am 46 years old.

22 Q. Are you married?

23 A. Yes.

24 Q. How long have you been married?

25 A. I'll be married 25 years May the 30th.

Gordon - Direct

1 Q. Do you have any children?

2 A. Yes, I have three boys.

3 Q. How old are they?

4 A. 22, 20 and, I think, 18. I'm not absolutely positive
5 about that.

6 Q. All right. Let me show you what's been -- what I have
7 marked as Defendant's Exhibit No. 40, and ask if this is a
8 resume of your employment, education and other activities?

9 A. Yes.

10 Q. And is it accurate?

11 A. To the best of my knowledge, it is.

12 Q. All right, sir. We would offer this Defendant's Exhibit
13 No. 40.

14 THE COURT: Excuse me. You have a 40.

15 MR. CARRUTH: Your Honor, I know of no hearsay
16 exception that would allow the admissibility of the resume of
17 a witness. I object to it on that basis.

18 THE COURT: It is hearsay. The objection is
19 sustained.

20 Q. (BY MR. T. MILLS) Where did you go to college and when?

21 A. I went to LSU in Shreveport, Louisiana, and I graduated in
22 '71.

23 Q. And did you earn a degree?

24 A. Yes, I did.

25 Q. What was your degree?

Gordon - Direct

1 A. Bachelor of Science in Finance and Business
2 Administration.

3 Q. And then, did you get a master's degree in ministry?

4 A. Yes, I did, from Criswell College.

5 Q. Where is Criswell College?

6 A. In Dallas, Texas.

7 Q. All right. You lived in Dallas?

8 A. At that time, yeah.

9 Q. For how many years?

10 A. Three or four years.

11 Q. All right. And what year did you get your master of
12 ministry degree?

13 A. I believe it was in '78.

14 Q. All right. Did you get a second -- did you get a master
15 of divinity degree?

16 A. Yes, I did, from New Orleans Baptist Theological Seminary.

17 Q. In what year?

18 A. I believe that was in '79.

19 Q. All right. Did you get a doctor of theology degree?

20 A. Yes, I did.

21 Q. From what seminary?

22 A. From New Orleans Baptist Theological Seminary, and I
23 earned that one in '87.

24 Q. All right. And have you been a pastor at several
25 churches?

Gordon - Direct

1 A. Yes, I have.

2 Q. In 19 -- were you a pastor at Hooper Road Baptist Church?

3 A. In Baton Rouge, yes, Louisiana.

4 Q. All right. And where did you move to after that church?

5 A. I moved to Maryland, Cockeysville, Maryland and pastored
6 the church there.

7 Q. All right. And in 1988, what work did you begin?

8 A. I went to work for the Home Mission Board of the Southern
9 Baptist Convention at that time.

10 Q. What is the Home Mission Board?

11 A. It no longer exists. It was merged into the North
12 American Mission Board about three years ago.

13 Q. And was that an administrative-type job or could you
14 describe what you did?

15 A. I basically did research as the theologian.

16 Q. All right. In 1989, what did you begin doing?

17 A. I've had so many jobs there, they kind of merge together,
18 quite honestly.

19 Q. All right.

20 A. But I -- basically, the whole time I've been there, I've
21 worked for the Interfaith Evangelism Team.

22 Q. All right. And do you still work with the Interfaith
23 Evangelism Team?

24 A. Yes, I do.

25 Q. And is that a part of the Southern Baptist Convention?

Gordon - Direct

1 A. Yes, it's a part of the North American Commissioner Board,
2 which is a subsidiary agency of the Southern Baptist
3 Convention.

4 Q. All right. As part of your studies, did you ever do any
5 study of atheism?

6 A. Yes, I did. I did my doctoral dissertation in the area of
7 atheism. I think the full title was A Contemporary
8 Apologetic, the concept of apologetics and writings of Peter
9 R. Burger and Hans Koon.

10 Q. All right. And did you ever have an occasion to see
11 either in a photograph, or a book cover, or in any other
12 capacity, Madalyn Murray O'Hair?

13 A. Yes, I have.

14 Q. All right. Did you meet her in -- did you -- prior to
15 1997, did you ever meet her in person?

16 A. No.

17 Q. All right. Do you -- did you -- did she ever do any, that
18 you were aware of, any scholarly or academic writing?

19 A. Not to my knowledge, she didn't.

20 Q. All right. Did you -- how would you describe her in terms
21 of just her appearance? Was she a unique-looking lady?

22 A. I would say so, yes.

23 Q. All right. During your business professional career, have
24 you gone to other countries to teach?

25 A. Yes, I have.

Gordon - Direct

1 Q. Okay. What countries have you been to?

2 A. I have been to Switzerland, and I have also been to
3 Romania.

4 Q. When did you teach in Switzerland?

5 A. I don't recall the exact date. I think it was about a
6 year and a half or two years before I went to Romania. I
7 could check my passport if you want me to, and I could find
8 the exact date.

9 Q. No. That's all right. After teaching in -- when did you
10 have an occasion to teach in Romania?

11 A. In November of 1997.

12 Q. All right. For those of us who may not know exactly where
13 Romania is, would you generally describe it?

14 A. It's in Eastern Europe.

15 Q. All right. Is it north of Italy?

16 A. Yes, I believe it is.

17 Q. All right. And what -- why were you in Romania in 1997?

18 A. I was invited to come and teach a class by the president
19 of one of the Baptist colleges there. I believe the name was
20 the Emmanuel Bible Institute of Oradea.

21 Q. What is Oradea?

22 A. Oradea is the name of the town there in Romania where I
23 was at.

24 Q. Do you know how it's spelled?

25 A. No, I don't.

Gordon - Direct

1 Q. Is it, like, phonetically I-R-I-D-I-A -- I-R-A-D-I-A,
2 Iradia?

3 A. It begins with an "O," I know that, Oradea.

4 Q. Oradea?

5 A. I'm sorry.

6 Q. And how long did you live in Oradea?

7 A. I was there for about five days.

8 Q. All right. And did you have the services of a translator?

9 A. Yes, I did.

10 Q. All right. Did you frequently do things with the
11 translator in terms of --

12 A. Yes.

13 Q. -- just --

14 A. Just about everytime I went someplace, there was a
15 translator with me --

16 Q. All right.

17 A. -- provided by the school.

18 Q. All right. What was translator's name?

19 A. Well, there were actually several translators that were
20 with me at various times.

21 Q. All right. Was there -- did you have an occasion to be
22 with the trans -- with one of the translators when you were
23 eating an evening meal?

24 A. Yes.

25 Q. And while you were eating an evening meal, did you see

Gordon - Direct

1 someone that you believed you recognized?

2 A. Yes, I did.

3 Q. Were you surprised to see this person?

4 A. Yes, I was.

5 Q. And who did you believe the person was?

6 A. I believe the person I saw was Madalyn Murray O'Hair.

7 Q. In November 1997?

8 A. That is correct.

9 Q. All right. Compared to, say, this man, seated right here,
10 or this lady here, about how far was your chair from this
11 woman's chair?

12 A. I would say somewhere between those two in distance.

13 Q. All right.

14 A. About right there. That's an approximation.

15 Q. All right. Would you approximate that this is ten feet?

16 A. Thereabouts.

17 Q. All right. And did you -- what did she look like?

18 A. She looked overweight. She looked sickly. And she
19 looked, I'd say, in her mid '70s.

20 Q. What color hair did she have?

21 A. Whitish, grayish.

22 Q. All right. Did you ever see her when she was standing up?

23 A. No, I did not.

24 Q. Did you see if she had a cane or any other kind of device
25 with her?

Gordon - Direct

1 A. No, I did not notice anything.

2 Q. All right. Did you have a conversation with your
3 translator about your opinion about who this was?

4 A. As I was leaving the hotel restaurant.

5 Q. You did?

6 A. Yeah, my translator turned to me and he said, "Was that
7 Madalyn Murray O'Hair?"

8 Q. All right.

9 A. And I said, "It looked like her to me."

10 Q. All right. Now, before this time in November 1997, had
11 you ever seen Madalyn Murray O'Hair in person?

12 A. No, I had not.

13 Q. All right. Let me show you what is marked as Government's
14 Exhibit W58-2 and W58-3. Can you see these two pictures? I
15 can come closer.

16 A. I would like you to come closer.

17 Q. All right.

18 A. I believe this is the woman I saw although she looked a
19 little older when I saw her.

20 Q. And you just looked at W58-2. Will you also look at
21 W58-3? They're different haircuts in the two.

22 A. Yeah. I'd say this picture looks a little closer to what
23 I saw her look like when I was there.

24 Q. Referring to W58-2?

25 A. Yeah.

Gordon - Direct

1 Q. Did you go over and talk with this woman that night?

2 A. No, I did not.

3 Q. Did you go to the restaurant the next night?

4 A. Yes, I did.

5 Q. Did you carry anything with you?

6 A. I carried my camera.

7 Q. Did you see her the next night?

8 A. No, I did not.

9 Q. Did you ever see her again?

10 A. No, I haven't.

11 Q. All right. Immediately after the night that you saw the
12 lady that you thought was Madalyn Murray O'Hair, did you
13 communicate your opinion to anyone?

14 A. Yes, I called my secretary, Judy Gillette at that time,
15 and I told her I thought I had seen Madalyn Murray O'Hair.

16 Q. Since then, have you mentioned it to other people?

17 A. Yes. When I found out that there was a missing persons
18 case on her, I reported it to a police officer with the city
19 of Austin.

20 Q. All right. Have you ever been interviewed about this by
21 any state -- well, city or state or federal law enforcement
22 officer?

23 A. I did talk with a person from the Austin City Police. I
24 do not recall his name, but I have not talked with anyone from
25 the federal government at all.

Gordon - Direct

1 Q. All right. Were you -- were you drinking that night?
2 Something that might cause you to be off of your -- I don't
3 guess baptists are supposed to drink.

4 A. Actually, I could get fired for doing that.

5 Q. All right. Well, were you drinking anyway?

6 A. No, I have never taken a drink of alcoholic beverage in my
7 entire life.

8 Q. All right. Were you on any kind of medication?

9 A. No.

10 Q. Okay. Have you ever been locked up in a psychiatric
11 institution or accused of being delusional?

12 A. No.

13 Q. All right. Can you say that you know with what you would
14 consider to be 100 percent certainty that that was Ms. O'Hair?

15 A. No, I can't say with 100 percent certainty. How could I
16 say that? I simply say I thought the woman was Mrs. O'Hair.
17 It looked like her, but I can't say it beyond a shadow of a
18 doubt that it was her.

19 Q. All right. I'll go ahead and ask this. Are you the kind
20 of person who has -- believes periodically that they see
21 Elvis, or are you prone to reporting that you've seen famous
22 people?

23 A. No.

24 Q. Has anything like this ever happened to you before?

25 A. No.

Gordon - Direct

1 Q. How long were you sitting approximately ten feet from this
2 woman? Approximately?

3 A. I was aware of her presence for about 15 minutes, I would
4 say.

5 Q. All right. Did she -- did you leave first?

6 A. Yes, I did.

7 Q. All right. How were you sitting in relationship to this
8 person? In other words, were you sitting at a table and
9 facing her, or was she behind you?

10 A. She was in a table right next to me. It was kind of to
11 that direction from me. I did not notice that she was there
12 until I turned around and looked for the waiter and saw her
13 sitting at the next table, facing me.

14 Q. She was facing you?

15 A. Yes.

16 Q. When you turned?

17 A. When I turned.

18 Q. And then, during the time that you -- the 15 --
19 approximately 15 minutes or so, did you turn several -- at all
20 several -- one or more times to see this person again?

21 A. Yes. Actually, when I saw her, I moved my chair so I was
22 kind of sitting sideways so I could turn and look at her
23 without being too obvious.

24 Q. Did she ever make eye contact with you?

25 A. No.

Gordon - Cross

1 Q. What -- how would you describe her during the time that
2 you were watching her?

3 A. She was fully engaged in eating.

4 Q. All right. There has been an accusation that there has
5 been a -- do you believe Ms. O'Hair was deceased in November
6 of 1997?

7 A. I knew she had been missing for a couple of years. That's
8 why I got so excited when I thought I saw her. But I had not
9 heard about her being deceased or anything at that time.

10 Q. All right. When you contacted Austin PD, were you
11 expecting a call from anyone back or did -- what was that
12 communication like?

13 A. I believe I talked to them one time, and the officer that
14 I talked to sounded interested and, you know, that's all I can
15 say.

16 Q. Did you ever talk to an organization -- international
17 organization called Interpol?

18 A. No, I did not.

19 Q. Did they ever contact you?

20 A. No, they did not.

21 Q. That's all the questions that I have, sir. The others
22 may.

23 CROSS-EXAMINATION

24 BY MR. D. MILLS:

25 Q. Did you, in your testimony earlier, say that when you

Gordon - Cross

1 found out that she was a missing person that you reported it
2 to the police after you came back from Romania?

3 A. Yes, I did. I believe it was sometime in '98. I don't
4 remember the exact date.

5 Q. So when you -- so sometime after you came back from
6 Romania, you found out she was a missing person, and that's
7 when you first called --

8 A. No. I found out there was a missing person's case on her.
9 I knew she had disappeared before that, but I wasn't aware of
10 any legal authorities that were looking for her at that time.

11 Q. But in the latter part of your testimony, just a few
12 moments ago, you said you knew she was missing and you got
13 excited; is that correct?

14 A. That is correct.

15 Q. So if you knew she was missing, what's the difference
16 between knowing she was missing and filing a missing --
17 waiting till you find out about a missing person's report when
18 you come back from Romania to report it to the police?

19 A. It's my understanding if somebody wants to disappear,
20 that's their right. But, you know, when -- someone, you know,
21 there's a police case on someone, a missing person's case, I
22 consider that differently. I didn't know who to report it to
23 until I found out there was a missing person's case.

24 Q. When you came back, did you make some type of inquiry with
25 law enforcement to find out if there was a missing person's

Gordon - Cross

1 report on Ms. O'Hair?

2 A. I did do a database check on the internet on news
3 articles, and I could not find where there was someone that,
4 you know, was looking for her as far as any legal authority.
5 I couldn't find anything that talked about any warrants, or
6 anything like that, for her arrest. That's all I did, and it
7 wasn't until I became aware that there was a missing person's
8 case on her that I reported my findings to the Austin City
9 Police.

10 Q. But you knew she was a missing person?

11 A. I knew she had disappeared, that's correct.

12 Q. But you didn't have any reason to believe there was any
13 kind of foul play going on at the time?

14 A. I had not read anything at that time that indicated anyone
15 suspected foul play.

16 Q. And in your doctoral study, you knew she was a prominent
17 figure in the atheist movement; is that correct? Would you
18 say that's true?

19 A. I would say that was a result of my work at the board, the
20 Mission Board. One of my areas of responsibility is to -- if
21 someone calls in, you know, and is all concerned about the
22 O'Hair petition to the FCC, I'm the one that they send those
23 things to so I can debunk it for the people and explain to
24 them that it's a hoax.

25 Q. So during the period of time that you were doing your

Gordon - Cross

1 doctoral dissertation, were you or were you not aware of Ms.
2 O'Hair being a, if you will, prominent atheist? And if you
3 don't like the word "prominent" --

4 A. I was aware that she was an atheist although I don't
5 consider anything that she's done to be scholarly or
6 significant enough, you know, work to merit discussion at a
7 doctoral dissertation.

8 Q. Had you studied photographs of her and looked at
9 photographs of her?

10 A. I have looked at photographs of her, yes.

11 Q. Do you know what vintage those photographs would have been
12 that you viewed? Would they have been when she was 30 years
13 old, 40 years old, 50 years old? Do you have any idea?

14 A. The latest one that I remembered looking at was one that
15 was taken by someone with the Sunday School Board of the
16 Southern Baptist Convention. She was at a -- I believe it was
17 a book seller's meeting in Russia. May have been '90, or
18 something like that, but around that date.

19 Q. Do you remember what she looked like in that photograph?

20 A. Yes, I believe I do.

21 Q. Could you tell us?

22 A. She looked like the woman I saw in Romania.

23 Q. So she looked the same from 1990 to 1998, she hadn't
24 changed any is what you're telling me?

25 A. No. She looked older when I saw her. She looked -- I

Gordon - Cross

1 would say not only did she look older, but she looked to be in
2 more frail health. She did not look to be a very healthy
3 woman.

4 Q. Did you see if she had any walking aides with her at the
5 table?

6 A. No, I did not notice anything.

7 Q. Like you know what a walker is that people walk with?

8 A. Right.

9 Q. Didn't see anything like that?

10 A. I did not see a walker or a --

11 Q. A cane?

12 A. I did not notice a cane. I did not notice a cane. She
13 was sitting when I saw her.

14 Q. But you notice she was old?

15 A. Yes.

16 Q. Did she have anyone at the table with her?

17 A. No.

18 Q. Do you know anything about the fact that she and her son
19 and her granddaughter, who she adopted as her daughter,
20 normally were considered an inseparable group, that they
21 always went places together?

22 A. I would -- really don't know that much about her as far as
23 her habits or things like that.

24 Q. Was the lighting in the restaurant as bright as the
25 lighting in this courthouse?

Gordon - Cross

1 A. I would say it was not.

2 Q. And how long had you been seated in the restaurant before
3 you noticed this person that you believe to be -- someone who
4 appears to be Ms. O'Hair in your opinion?

5 A. I would say approximately about 15 to 20 minutes. I was
6 about halfway through the meal.

7 Q. And you stayed another 15 minutes?

8 A. Yes.

9 Q. So, basically, you had dinner in about a 30-minute time
10 period?

11 A. Approximately. I didn't have any stopwatch out or
12 anything.

13 Q. But you knew she was missing?

14 A. I knew she had disappeared, yes.

15 Q. And --

16 A. That's why I wanted to go back and get my camera.

17 Q. If you were willing to go back and get your camera, you
18 could have just walked over and introduced yourself and said,
19 "I'm so and so with the Southern Baptist. How are you, Ms.
20 O'Hair," couldn't you?

21 A. Yes, but I also knew if she was missing, she didn't want
22 to be found.

23 Q. But you were willing to go back and take a photograph of
24 her the next night, for some reason, to basically take that
25 photograph and memorialize the fact that you had seen her or

Gordon - Cross

1 found her; isn't that correct?

2 A. I actually answered documentation that I found her.

3 Q. And it would have been just as easy and say, "I'm so and
4 so, are you Mrs. O'Hair," because you didn't believe there was
5 any foul play going on with her being missing, did you?

6 A. No, but I thought that if, you know, she had been
7 disappeared for approximately two years, she didn't want to be
8 found.

9 Q. How was she dressed?

10 A. I believe she had a dress on, but I really can't recall
11 any details.

12 Q. Maybe a dress and, maybe, slacks and a blouse?

13 A. I really don't recall.

14 Q. Color? Bright? Dull?

15 A. I really don't recall. I can't remember what my wife was
16 wearing last week.

17 Q. What time of the day was this?

18 A. This was in the evening. It was dark.

19 Q. 6:00 p.m? 7:00 p.m? 8:00 p.m?

20 A. I would say around 7:00, but that's an approximation.

21 Q. You described her as fully engaged in eating. What was
22 she eating?

23 A. I believe it was some kind of a pasta meal, but there's a
24 lot of food in Romania that I can't identify or recognize.

25 Q. And you -- your curiosity was somewhat overwhelmed when

Gordon - Cross

1 you assumed that you saw Madalyn Murray O'Hair. Would that be
2 a fair statement?

3 A. I would say that my adrenaline was definitely going.

4 Q. Because you turned your chair?

5 A. Yes, and tried to get a view of her. I was shocked to see
6 her.

7 Q. What was your interest in her?

8 A. Well, one of my areas of responsibility at the board is
9 doing research on atheism. I, you know, knew that she had
10 disappeared and thought that I had seen her.

11 Q. And why did -- and why was that of some significance to
12 you?

13 A. No one knew where she was.

14 Q. And yet, you had the opportunity to walk over and say,
15 "I'm so and so. Are you Madalyn Murray O'Hair?" And you
16 didn't do that?

17 A. No, I didn't, because I was afraid that I wouldn't have an
18 opportunity to take her picture if I did that.

19 Q. You had a witness with you, though, that could have said
20 that the lady that you introduced yourself to identified
21 herself to you as Madalyn Murray O'Hair?

22 A. Well, I have a witness that was with me who thought it was
23 her, too.

24 Q. And this is somebody from -- this is a Romanian
25 translator?

Gordon - Cross

1 A. Yes.

2 Q. And so he had independent knowledge that this woman looked
3 like Madalyn Murray O'Hair is what you're telling us?

4 A. No. He said he thought that the woman looked like Madalyn
5 Murray O'Hair.

6 Q. Does he study atheism, too, that he would know who she is?

7 A. No. He reads American magazines, especially Christian
8 magazines.

9 Q. How far was this restaurant adjacent to your hotel or in
10 your hotel?

11 A. It was in the resort town of Felix. I don't know where
12 that is. In terms of proximity -- I don't know where it is
13 either in relationship to Oradea. I knew it was about 20 or
14 25 minutes away driving.

15 Q. To -- back to your hotel?

16 A. I was actually staying at the college.

17 Q. And so where is the college in relation to the restaurant?

18 A. About 20 or 25 minutes away.

19 Q. Okay. So you could have gone over there and gotten your
20 camera and come back, but you decided not to do that that
21 evening, correct?

22 A. That is correct. I didn't anticipate her still be there
23 eating when I got back.

24 Q. What made you believe she was sickly if you saw her
25 sitting down and you can't describe anything about her in

Gordon - Cross

1 terms of what she was wearing or that -- what brought out to
2 you that she was sickly?

3 A. Her face.

4 Q. Did you see her from a profile or did you get a full
5 view --

6 A. Full view of her face. I saw her like I'm seeing you.

7 Q. So she was behind you, as you indicated, over --

8 A. Right.

9 Q. Was she looking that way or was she sitting on the far
10 side of a table, looking back this way so that when you turned
11 and you looked at her --

12 A. She was on the opposite side of the table from me which
13 means that he was facing in my direction.

14 Q. Was she against the wall?

15 A. There may have been a pillar there, but she was not on the
16 edge of the room.

17 Q. Would that be a darker portion of the restaurant?

18 A. The lighting was about the same.

19 Q. And you had difficulty seeing in the photographs when
20 counsel showed them to you from this position a while ago; is
21 that correct?

22 A. I wanted to see them closer, yes.

23 Q. And you testified that she was about where I am from you
24 to me right now; is that correct?

25 A. Right. Those photos aren't quite as large.

Martin - Cross

1 Q. But it's a lot more bright in it, isn't it, sir?

2 A. Oh, yes, it is.

3 Q. I believe that's all, your Honor.

4 MR. T. MILLS: We have no further questions. May he
5 be excused?

6 THE COURT: You are free to leave. Mr. Martin, if
7 you'll return to the witness chair, please.

8 CROSS-EXAMINATION

9 BY MS. WILLIAMS:

10 Q. Agent Martin, I want to ask you a couple of questions
11 about your spreadsheet. You have a copy?

12 A. Yes.

13 Q. On Government Exhibit W100-5, parenthesis 3, when you
14 indicate that Mr. Karr purchased a Harley Davidson motorcycle,
15 a computer, furniture, and purchased Crystal a car, you don't
16 have any evidence of that, do you?

17 A. I have the statement of Charlene Karr. That's all I have.

18 Q. All right. You don't have any credit card receipts, bank
19 records. You didn't find any of these items, that type thing,
20 correct?

21 A. That's correct.

22 Q. But you looked, didn't you?

23 A. Well, nothing on those credit cards that's to be sure.

24 Q. And you tried to find evidence of a Harley Davidson
25 motorcycle, did you not?

Martin - Cross

1 A. Yes, ma'am.

2 Q. But you didn't find any?

3 A. No, I didn't.

4 Q. And when you indicate at the bottom of this exhibit, on
5 line 58, remaining gold proceeds available for motorcycle,
6 computer, furniture and car purchases, you indicate \$60,000?

7 A. Yes --

8 Q. Now --

9 A. -- that's a balance.

10 Q. -- is that based on your analysis from W-105, parenthesis
11 4, where you indicate that there was \$500,000 in gold coins
12 picked up from Mr. Ticknor?

13 A. Yes.

14 Q. You subtract from that \$440,000, right?

15 A. Right.

16 Q. And that's where you get 60,000?

17 A. That's correct.

18 Q. All right. Now, to get \$440, what did you do?

19 A. The testimony of the three gold thieves.

20 Q. Which was 140, 140 and 120?

21 A. 140, 140 and a little more than 140.

22 Q. All right. So took 140 and 140 and added that together
23 and got?

24 A. Well, if you take three times 140, that is -- that's 420.
25 If you add another 20, which is one Mr. Cortez, as my

Martin - Cross

1 understanding, got additional funds, that's 440.

2 Q. All right. So when these men testified that one got
3 additional, you just plugged in the number 20?

4 A. Yes.

5 Q. All right. Isn't it correct that you could have taken the
6 records of the pawn shops and the coin dealers and the -- all
7 the records you tracked down that you attributed to these
8 three men -- remember that list of names? You remember
9 that --

10 A. Yes, I remember the list.

11 Q. Okay. Couldn't you have taken all of those records and
12 added all those up and gotten a number?

13 A. That number was not correct. Would not have been correct.
14 We did not have all the evidence on the gold coins.

15 Q. My question was, couldn't you have taken all those numbers
16 and added them together and come up with a figure that was
17 supported by the records that you had accumulated?

18 A. Yes.

19 Q. All right. Did you ever add all those up?

20 A. At one time, I did.

21 Q. All right. Do you remember what the total was?

22 A. At this time, no.

23 Q. Well, you said you didn't believe it was correct. Was it
24 not correct because it didn't add up to \$440,000?

25 A. No. It was not correct because the major one, Mr.

Martin - Cross

1 Cardenas, because of his cashing most of his money in
2 Tennessee, we were not able to obtain any records.

3 Q. All right. But if you had added all those up, couldn't
4 you have gotten a figure that was supported by the records of
5 what Mr. Cortez and Mr. Valdez cashed in in San Antonio?

6 A. Yes.

7 Q. But you don't remember what that number is?

8 A. It was -- it would have been much smaller than the number
9 that we've got here, much smaller than \$440,000.

10 Q. Would it have been much smaller than \$140 plus \$140,000
11 plus some?

12 A. Probably smaller, yes.

13 Q. So this figure, \$440,000, as well as the figure \$60,000,
14 are not really a summary of the evidence that's been admitted
15 in this case; is that correct?

16 A. Well, the additional \$20,000 probably represents something
17 that was something in our notes.

18 Q. Just summary of the mind of Ed Martin?

19 A. Yes, the additional money.

20 Q. I'm not going to pull out the chart, but you have the
21 smaller versions of the -- this time line --

22 A. Yes.

23 Q. -- in front of you? Do you recall an entry on August
24 27th, 1995? If you'd go to that page, look at the second
25 chart. Do you have a notation there on what government

Martin - Cross

1 exhibit that would be?

2 A. No, I don't. It's page 2, as far as I'm concerned.

3 Q. For the record, W-106, parenthesis 2. The first entry on
4 that page, I believe, read, "The Murray O'Hairs were last seen
5 by volunteer Albarado," right?

6 A. It didn't say "by." It says, "The O'Hairs last seen,
7 volunteer W. Albarado," yes.

8 Q. All right. Does that not apply to that they were last
9 seen by that man?

10 A. The sentence that follows says, "Sees Robin Murray
11 O'Hair's Porsche and Jon Murray's Mercedes."

12 Q. What, in fact, the testimony is is that Mr. Albarado sees
13 the vehicles there?

14 A. Yes.

15 Q. All right. He didn't testify and it's not your belief
16 that he said he saw them on that day, correct?

17 A. He did not see him as far as testimony, yes.

18 Q. As Mr. Carruth asked you, on those charts, you indicate,
19 repeatedly, that certain people called certain other people.
20 And what you mean by that is the phones registered to certain
21 people. All the phones registered to certain other people.

22 A. That's correct.

23 Q. All right. And in some cases, the jury can remember the
24 testimony that, you know, Lisa Fry remembered getting a phone
25 call from Danny Fry?

Martin - Cross

1 A. Yes.

2 Q. But other than that, it's -- the phone at one residence
3 calls a phone at another residence, and you don't know who's
4 on either end.

5 A. That's correct.

6 Q. Let me ask you about the next to the last chart, 5, which
7 should be Government Exhibit 100 --

8 A. 6-5.

9 Q. -- 6, parenthesis 5?

10 A. Yes, ma'am.

11 Q. All right. In the third column, after you discussed the
12 Public Storage unit being accessed and before the dates of
13 September 30th, when Patti Steffens and her mother recalled
14 seeing David Waters, Gary Karr and Danny Fry having breakfast,
15 and before this rental van, there's a box and it's dated
16 September/October 1995. Do you see that box?

17 A. Yes, uh-huh.

18 Q. All right. Now, you stuck that box in there although you
19 don't have any idea whether it happened on September 30th,
20 correct?

21 A. At this point, that's why it says September/October.

22 Q. All right. But my question is you had to stick it
23 somewhere --

24 A. Yes.

25 Q. -- in the time line --

Martin - Cross

1 A. Right.

2 Q. -- of events. And it just as easily could have gone
3 somewhere over here in October.

4 A. No. It would have been more like October the 1st would be
5 the farthest it could go because of the entry records.

6 Q. Well, you're assuming in putting it in here that Mr.
7 Coryell saw three people that had to do with this case,
8 correct?

9 A. That's right.

10 Q. And you don't know that, do you?

11 A. I don't know specifically, but Mr. Coryell testified.

12 Q. All right. And the jury can recall what Mr. Coryell's
13 testimony was.

14 A. Yes, ma'am.

15 Q. But the fact of the matter is that you stuck this where it
16 looked good, right?

17 A. No. It's in the month of September. It's before -- it
18 could have been at the end of September 30th, but it happens
19 to be there because of the entry record of September the 30th.

20 Q. Because you're making the assumption that the people that
21 Mr. Coryell saw are the same people who entered on that day?

22 A. Yes.

23 Q. You testified, I believe, that when you were at my
24 client's residence, back in March, that he gave you a written
25 statement?

Martin - Cross

1 A. Yes, ma'am.

2 Q. And that at the time he made that written statement, he
3 told you orally that, basically, I think was your word, that
4 he wasn't telling you everything.

5 A. That's correct.

6 Q. All right. Isn't it a fact that that happened on the
7 first day?

8 A. It did happen on the first day.

9 Q. All right. And isn't it a fact that on the second day,
10 the day after that, on March the 25th, you went back to Mr.
11 Karr's residence and he told you more stuff?

12 A. Didn't go to his residence.

13 Q. All right. Isn't it a fact that he told you more things
14 on that day?

15 A. He told us -- on the second day, he told us some
16 additional information, yes.

17 Q. Isn't it a fact he gave you a second statement on that
18 day?

19 A. He sure did.

20 Q. And isn't it a fact that it was on that day that he drew
21 you a map to where David Waters took him when he came back to
22 Texas?

23 A. Well, I drew the map, right? And he drew Mr. Houston's
24 map.

25 Q. He drew a map for a Special Agent Sykes Houston?

Martin - Cross

1 A. As far as I know, yes.

2 Q. On the 25th?

3 A. On the 25th.

4 Q. All right. On that day, did he tell you that he wasn't
5 telling you everything?

6 A. We didn't get into that discussion.

7 Q. He didn't tell you that, did he?

8 A. He didn't tell me, no.

9 Q. On your time line charts, I didn't notice when I was
10 listening to you explaining them to the jury where you
11 indicated that Danny Fry had rented a room at the Interstate
12 Inn. Was that on there or did I miss it?

13 A. It was not on there.

14 Q. All right. Why not?

15 A. Because Danny Fry, as far as I know, did not rent a room
16 at the Interstate Inn.

17 Q. You were here, were you not, when Detective Bjorklund
18 testified that when he reviewed the records of the Interstate
19 Inn, his notes reflect that Danny Fry stayed at the Interstate
20 Inn on the same dates that David Waters stayed there?

21 A. I don't know where Mr. Bjorklund got that information.

22 Q. You do recall that information?

23 A. I do remember him saying that here, but that's all I
24 remember.

25 Q. All right. And you just don't know anything about that.

Martin - Cross

1 A. There's no evidence to that in the record, ma'am.

2 Q. Well, there's evidence of that from Detective Bjorklund,
3 is there not?

4 A. There is a statement made by Mr. Bjorklund. If that would
5 have been an invoice at that hotel, I would have found it. We
6 went through those records. I was there.

7 Q. All right. So are you telling this jury that the only
8 thing in this case they can rely on are things that they have
9 had admitted on a piece of paper?

10 A. No, because there's testimony of other people that have
11 direct knowledge.

12 Q. All right. And are you telling this jury that they should
13 discount Detective Bjorklund's testimony?

14 A. In that particular instance, yes.

15 Q. Think he made it up?

16 A. I don't know what he did.

17 Q. Think he imagined it?

18 A. I don't know what he did, ma'am. That's his misstatement,
19 not mine.

20 Q. Do you recall in your investigation of this case some
21 testimony about the O'Hairs' dogs?

22 A. Yes, ma'am.

23 Q. And do you recall that Mr. Tyson testified that he saw his
24 two dogs in the backyard and then they were gone and -- you
25 remember all of that?

Martin - Cross

1 A. Yes.

2 Q. And you're aware, are you not, through your investigation
3 of this case, that it was Mr. Tyson who picked up the dogs
4 from the Griffith Animal Hospital?

5 A. Yes, ma'am, I am.

6 Q. Are you aware through your investigation of this case that
7 sometime late in the year, probably in December, that those
8 dogs disappeared from the backyard of the American Atheist
9 Headquarters?

10 A. That was my understanding, yes.

11 Q. You've heard that?

12 A. Yes.

13 Q. And what's your explanation for that?

14 A. I have none. Mr. Tyson told me and the rest of the people
15 that we spoke to said that there were people going around
16 releasing dogs in Austin. That's the best we got.

17 Q. All right. So a gang of people were freeing dogs?

18 A. That's what we were told. I wasn't there at the time.

19 Q. And that's the best explanation you have for why the --

20 A. It wasn't all three dogs, though, was it? I believe it
21 was only two.

22 Q. It was the two cocker spaniels, wasn't it?

23 A. I don't know which dogs they were.

24 Q. Do you recall through your investigation of this case that
25 one of the creditors of Jon Murray was Blockbuster Video?

Martin - Cross

1 A. I don't know -- creditors -- I'm not specifically aware of
2 that, no.

3 Q. Are you aware that Jon Murray's Blockbuster card was used
4 in San Antonio during the time that the O'Hairs were there?

5 A. I'm not aware of that.

6 Q. Does that surprise you?

7 A. No.

8 Q. Are you aware of a subpoena that went out during the
9 pendency of this case to Blockbuster Video in San Antonio?

10 A. Oh, I think Mr. Mills did mention a subpoena went out,
11 yes.

12 Q. All right. So you -- does that jog your memory about
13 knowing about Blockbuster or that's all you know?

14 A. That's all I know.

15 Q. During your investigation of this case, did you find some
16 various receipts for purchases that were made during the month
17 of August by the O'Hairs?

18 A. Yes.

19 Q. Do you remember receipts to Rainbow Car Wash, on August
20 the 26th of 1995, by Jon Murray?

21 A. Yes, ma'am.

22 Q. And does it appear to you from those receipts that Mr.
23 Murray took two vehicles to the car wash on that date and
24 washed them and filled them up with gas?

25 A. I think he had them detailed, yes, I think he did.

Martin - Cross

1 Q. Do you recall a receipt -- a check written by Jon Murray
2 to Drug Emporium in late August of 1995?

3 A. Yes, I do.

4 Q. Do you recall the date of that check?

5 A. No. But you have it there. You can refresh me.

6 Q. If I can find it, I will. While I look for it, did you do
7 any sort of an investigation to determine what Mr. Murray
8 purchased on that day?

9 A. I think the record that I remember seeing, I think that's
10 Mr. Gordon McNutt that the receipt was attached to it.

11 Q. All right.

12 A. So it was medicine he had purchased.

13 Q. Okay. And did you do any sort of investigation such as
14 subpoenaing the prescription records of the Drug Emporium
15 here, in Austin, to determine what Mr. Murray purchased on --
16 I'll show you the date of the check -- on August 26th of 1995?

17 A. No, I didn't.

18 Q. Do you recall that?

19 A. Yes.

20 Q. Do you have the original of that somewhere?

21 A. No, I do not. I have a copy, possibly.

22 Q. All right. On the original, is the receipt any easier to
23 read than on my copy, to your recollection?

24 A. It may be. If I have the -- I don't have the original. I
25 have a copy, I'm sure.

Martin - Cross

1 Q. But your copy may be --

2 A. It may be better.

3 Q. We may look at that over the break.

4 A. That's fine.

5 Q. Do you remember that Government Exhibit W47-1, the Petry
6 Travel records?

7 A. Yes.

8 Q. Do you remember what sort of rental car Mr. Murray got on
9 that occasion?

10 A. Budget Rental Car.

11 Q. And do you remember from your review of the credit card
12 records what sort of car Mr. Murray rented when he traveled
13 with his mother and his sister to -- on their vacation to
14 Virginia?

15 A. I'll have to check. I might have that information.

16 Q. I think if you'll look in Optima, that will help you.

17 A. I don't have the record. If you could provide the record,
18 I'd be happy to look.

19 Q. I'll show you my copy.

20 A. From Budget Rental Car.

21 Q. All right. We'll get the exhibit that the records are in.
22 Do you remember some testimony from Ms. Johnson about how she
23 felt it was sort of unusual that when Mr. Murray traveled to
24 New Jersey in September that he stayed at the Sheraton Tara
25 Hotel?

Martin - Cross

1 A. Yes.

2 Q. And do you recall what she thought was so unusual about
3 that?

4 A. He generally stayed at the Embassy Suites across the
5 street.

6 Q. Do you know, from your review of the records, where Mr.
7 Murray stayed with when he went to New Jersey to visit Ellen
8 Johnson, the month before?

9 A. No, I don't. The month before, no, I don't.

10 Q. All right. Again, I'm going to show you my copy of the
11 Citibank Diner's Club records from Jon Murray and the Society
12 of Separationists, on July the 3rd of 1995.

13 A. Marriott Hotel.

14 Q. And what was the charge on that date?

15 A. \$256.34.

16 Q. And what was the charge for the hotel that Mr. Murray
17 stayed at when he went in September? I'm sorry. It's on that
18 -- it's on the Petry Travel records.

19 A. Yes. Well, it's \$112 -- it's also on the American
20 Express, September the 22nd, Sheraton Hotel, \$145.

21 Q. All right. Let me refer you back to Diner's Club. Do the
22 records show where Mr. Murray stayed when he traveled to
23 Houston back in March of '95?

24 A. The Four Seasons -- well, no, not in March. I don't see
25 March here on my schedule. The Sheraton Astrodome.

Martin - Cross

1 Q. And in April?

2 A. I don't have that -- my schedule starts in June. The
3 Clarion Hotel.

4 Q. And in May, again, to Houston?

5 A. The Double Tree Post Oak.

6 Q. And looks like the Allen Park Inn, also, twice. And in
7 June?

8 A. Four Seasons Hotel.

9 Q. And in St. Petersburg?

10 A. Hampton.

11 Q. So from your review of the financial records, would it be
12 fair to say that Mr. Murray stayed at a wide variety of hotels
13 during his travel?

14 A. Yes, ma'am.

15 Q. Do you have any knowledge of what Mr. Murray was doing
16 when he went to Florida in June?

17 A. I don't.

18 Q. All right. Do your American Express records -- do your
19 summaries go back that far according to what you have on your
20 table?

21 A. I have an entry on June 23rd for Vital Records Services.
22 That's the only thing I have.

23 Q. I'm sorry. For what?

24 A. BCN Florida Vital Records Information Service in
25 Jacksonville, Florida.

Martin - Cross

1 Q. Do you know what that is?

2 A. No.

3 Q. Did you make any inquiry about that?

4 A. No.

5 Q. That wasn't part of your money laundering investigation?

6 A. That's correct.

7 Q. Did you notice in July, purchases of consumer electronics
8 by Jon Garth Murray on his American Express card?

9 A. I don't see anything on my analysis, but if you have a
10 record, I'll look at it. Okay.

11 Q. Do you see purchases by Mr. Murray of consumer electronics
12 in July of 1995?

13 A. AlTex Electronics, San Antonio, Texas, July '95, yes.

14 Q. All right. Would a consumer electronics store be the kind
15 of place that one would purchase items like Government Exhibit
16 D77-24 and W77-25?

17 A. I have no idea.

18 Q. Are these electronic?

19 A. Yes, but that could easily be anything.

20 Q. Did you note in your analysis of the records that a
21 payment was received on Mr. Murray's American Express card in
22 February of 1996?

23 A. The analysis I have, it stops at 1995. I'd have to look
24 at the -- there are two payments in February.

25 Q. Two payments in February on two separate dates?

Martin - Cross

1 A. Yes.

2 Q. How much money did your investigation reveal that the
3 three Murray O'Hairs and the corporate entities owed the IRS
4 when they vanished from public view?

5 A. I didn't get to the IRS aspect of it. I looked at the
6 probate records and some additional records that we had here,
7 I think the Travis County probate records and others that have
8 liens filed that indicates, like, \$200,000 or a little more on
9 Madalyn's case, and 30,000 in Robin and, maybe, 40,000 on Jon.

10 Q. But you didn't do any sort of a summary or an analysis of
11 how those numbers compare to the numbers on your spreadsheet,
12 did you?

13 A. There's no relationship.

14 Q. My question was, did you do any sort of analysis to
15 compare the amount that the O'Hairs owed the IRS with the
16 amounts reflected on your spreadsheet?

17 A. I did not prepare because there is no relationship.

18 Q. In your opinion, there's no relationship, but you didn't
19 do any sort of an analysis to determine the comparison between
20 those numbers and the numbers that the Murray O'Hairs owed the
21 IRS; is that correct?

22 A. I did not prepare a analysis.

23 Q. When the house and its contents were auctioned off, how
24 were the proceeds distributed among the IRS, if you know?

25 A. I do not know.

Martin - Cross

1 MS. WILLIAMS: Your Honor, are we at a good breaking
2 point? I have some detailed questions that --

3 THE COURT: How much longer do you think?

4 MS. WILLIAMS: Longer than after 6:00.

5 THE COURT: All right. Members of the jury, I'm going
6 to give you your evening break. Please remember the
7 instructions. Be ready to come back at 8:30.

8 (Jury not present.)

9 THE COURT: I don't know if that was a stall or not,
10 but do get a little bit more organized in the morning.

11 MS. WILLIAMS: Your Honor, I need to ask him to add up
12 a bunch of things.

13 THE COURT: I have been known in my lifetime to stall
14 at 6:00. This is the last witness?

15 MR. CARRUTH: It is, your Honor.

16 THE COURT: So the scenario will be a few more
17 questions, and then, the jury will come in and go back out?
18 I'm just trying to avoid that, but that looks like that's what
19 the scenario's going to be.

20 MR. T. MILLS: I don't anticipate a long detailed
21 motion. I'll put one on the record.

22 THE COURT: I don't either. I always recommend you
23 file it, but do what you wish. 8:30 in the morning.

24 (Proceedings adjourned.)
25